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HOUSE BILL 926

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Short Title: Insurance Law Changes.

(Public)

Sponsors:

Referred to:

April 14, 1997

A BILL TO BE ENTITLED
AN ACT PERTAINING TO CHANGES IN THE INSURANCE LAWS AND
RELATED LAWS.

The General Assembly of North Carolina enacts:

CHARITABLE GIFT ANNUITIES

Section 1. (a) G.S. 58-3-5 reads as rewritten:

"§ 58-3-5. No insurance contracts except under Articles 1 through 64 of this Chapter.

~~Except as provided in G.S. 58-3-6, it is unlawful for any company to make any contract of insurance upon or concerning any property or interest or lives in this State, or with any resident thereof, or for any person as insurance agent or insurance broker to make, negotiate, solicit, or in any manner aid in the transaction of such insurance, unless and except as authorized under the provisions of Articles 1 though 64 of this Chapter."~~

(b) Chapter 58 of the General Statutes is amended by adding the following new section:

"§ 58-3-6. Charitable gift annuities.

1 (a) A charitable organization as described in section 501(c)(3) or section 170(c) of
2 the Internal Revenue Code or an educational institution may receive a transfer of property
3 from a donor in exchange for an annuity payable over one or two lives, under which the
4 actuarial value of the annuity is less than the value of the property transferred and the
5 difference in value constitutes a charitable deduction for federal tax purposes. The
6 issuance of the annuity by a charitable organization does not constitute engaging in the
7 business of insurance if the organization, when the annuity agreement is issued:

- 8 (1) Has a minimum of \$100,000 in unrestricted cash, cash equivalents, or
9 publicly-traded securities, exclusive of the assets contributed by the
10 donor in return for the annuity agreement;
11 (2) Has been in active, continuous operation for at least three years or is a
12 successor to or affiliate of a charitable organization that has been in
13 active operation for at least three years; and
14 (3) Includes the following disclosure clause in each annuity agreement
15 issued on or after November 1, 1998: 'This annuity is not issued by an
16 insurance company, is not subject to regulation by the State of North
17 Carolina, and is not protected or otherwise guaranteed by any
18 government agency or insurance guaranty fund.'

19 Subdivisions (1) and (2) of this subsection do not apply to an educational institution
20 that was issuing annuity agreements prior to the effective date of this section nor to an
21 organization formed solely to support an educational institution in active operation at
22 least three years prior to the effective date of this section.

23 (b) A charitable organization or educational institution that issues a charitable
24 annuity shall notify the Department by January 1, 1999, or within 90 days of issuing its
25 first annuity, whichever is later. The notice shall be signed by an officer or director of
26 the organization or educational institution, identify the organization or institution, and
27 certify that the organization or institution is a charitable organization or educational
28 institution and that its annuities are issued in compliance with the applicable provisions
29 of subsection (a) of this section.

30 (c) A charitable organization that issues charitable annuities must make available
31 to the Commissioner, upon request, a copy of its Internal Revenue Service Form 990 or
32 Form 990-EZ for the most recent fiscal year for which the due date has passed. If the
33 organization was not required to file either form with the Internal Revenue Service for the
34 preceding fiscal year, or was allowed to submit the form in abbreviated format, it shall
35 make available to the Commissioner, upon request, the same information that would have
36 been required to have been filed under the Form 990, in a similar format as specified by
37 the Commissioner. A copy of the Form 990, or corresponding substitute information as
38 authorized by the Commissioner, shall be made available to the prospective annuitant at
39 the time of the initial solicitation of the contribution, and updated information shall be
40 made available at the time of execution of the annuity agreement.

41 (d) The Department may enforce performance of the requirements of this section
42 by notifying the organization or institution and demanding that it comply with the
43 requirements of this section. The Department may fine an organization or educational

1 institution, up to \$1,000 per annuity agreement, for failure to comply after notice and
2 demand from the Commissioner.

3 (e) A charitable gift annuity issued by a charitable organization or educational
4 institution prior to the effective date of this section does not constitute engaging in the
5 business of insurance.

6 (f) For purposes of this section, an 'educational institution' means a public or
7 private college, university, or community college that maintains a faculty to provide
8 instruction to students."

9 (c) The Department of Insurance shall study the use of charitable gift annuities
10 by tax-exempt organizations and educational institutions and the need for additional
11 solvency requirements or regulation. The Department shall report its findings to the
12 General Assembly no later than April 1, 1999.

14 PPO CONTRACT DEEMER PROVISION

15 Section 2. G.S. 58-50-56(b) reads as rewritten:

16 "(b) Insurers may enter into preferred provider contracts or enter into other cost
17 containment arrangements approved by the Commissioner to reduce the costs of
18 providing health care services. These contracts or arrangements may be entered into with
19 licensed health care providers of all kinds without regard to specialty of services or
20 limitation to a specific type of practice. A preferred provider contract or other cost
21 containment arrangement that is not disapproved by the Commissioner within 90 days of
22 its filing by the insurer shall be deemed to be approved."

24 AVIATION INSURANCE

25 Section 3. G.S. 58-21-10(8) reads as rewritten:

26 "(8) 'Surplus lines insurance' means any insurance in this State of risks
27 resident, located, or to be performed in this State, permitted to be placed
28 through a surplus lines licensee with a nonadmitted insurer eligible to
29 accept such insurance, other than reinsurance, aviation insurance, wet
30 marine and transportation insurance, insurance independently procured
31 pursuant to G.S. 58-28-5, life and accident or health insurance, and
32 annuities."

34 HMO INSOLVENCY CLAIMS PRIORITIES

35 Section 4. G.S. 58-30-220 reads as rewritten:

36 "§ 58-30-220. Priority of distribution.

37 The priority of distribution of claims from the insurer's estate shall be in accordance
38 with the order in which each class of claims is set forth in this section. Every claim in
39 each class shall be paid in full or adequate funds shall be retained for payment before the
40 members of the next class receive any payment. No subcategories shall be established
41 within the categories in a class. The order of distribution of claims shall be:

42 (1) The receiver's expenses for the administration and conservation of
43 assets of the insurer.

1 (2) Claims or portions of claims for benefits under policies and for losses
2 incurred, including claims of third parties under liability policies; claims
3 of HMO enrollees and HMO enrollees' beneficiaries; claims for
4 unearned premiums; claims for funds or consideration held under
5 funding agreements, as defined in G.S. 58-7-16; claims under life
6 insurance and annuity policies, whether for death proceeds, annuity
7 proceeds, or investment values; and claims of domestic and foreign
8 guaranty associations, including claims for the reasonable
9 administrative expenses of domestic and foreign guaranty associations;
10 but excluding claims of insurance pools, underwriting associations, or
11 those arising out of reinsurance agreements, claims of other insurers for
12 subrogation, and claims of insurers for payments and settlements under
13 uninsured and underinsured motorist coverages.

14 (2a) For HMOs, claims of providers and participating providers, as defined
15 in G.S. 58-67-5(h) and G.S. 58-67-5(1), who are obligated by statute,
16 agreement, or court order to hold enrollees harmless from liability for
17 services provided and covered by an HMO.

18 (3) Claims of the federal or any state or local government or taxing
19 authority, including claims for taxes.

20 (4) Compensation actually owing to employees other than officers of the
21 insurer for services rendered within three months before the
22 commencement of a delinquency proceeding against the insurer under
23 this Article, but not exceeding one thousand dollars (\$1,000) for each
24 employee. In the discretion of the Commissioner, this compensation
25 may be paid as soon as practicable after the proceeding has been
26 commenced. This priority is in lieu of any other similar priority that
27 may be authorized by law as to wages or compensation of those
28 employees.

29 (5) Claims of general creditors, including claims of insurance pools,
30 underwriting associations, or those arising out of reinsurance
31 agreements; claims of other insurers for subrogation; and claims of
32 insurers for payments and settlements under uninsured and underinsured
33 motorist coverages."

34 Section 5. G.S. 58-67-145 reads as rewritten:

35 "**§ 58-67-145. Rehabilitation, liquidation, or conservation of health maintenance**
36 **organization.**

37 Any rehabilitation, liquidation or conservation of a health maintenance organization
38 shall be deemed to be the rehabilitation, liquidation, or conservation of an insurance
39 company and shall be conducted under the supervision of the Commissioner pursuant to
40 the law governing the rehabilitation, liquidation, or conservation of insurance companies,
41 except that the provisions of Articles 48 and 62 of this Chapter shall not apply to health
42 maintenance organizations. The Commissioner may apply for an order directing him to
43 rehabilitate, liquidate, or conserve a health maintenance organization upon one or more

1 grounds set out in Article 30 of this Chapter or when in his opinion the continued
2 operation of the health maintenance organization would be hazardous either to the
3 enrollees or to the people of this State.

4 ~~For the purpose of determining the priority of distribution of general assets, claims of~~
5 ~~enrollees and claims of enrollees' beneficiaries have the same claims' priorities as~~
6 ~~established by G.S. 58-30-220, for policyholders and beneficiaries of other insurance~~
7 ~~companies. Any provider who is obligated by statute, agreement, or court order to hold~~
8 ~~enrollees harmless from liability for services provided and covered by an HMO has a~~
9 ~~priority of distribution next subordinate to that of policyholders under G.S. 58-30-220, so~~
10 ~~that his status is after claims for unearned premiums, but before claims of general~~
11 ~~creditors. Providers who are not obligated to hold enrollees harmless shall be treated as~~
12 ~~general creditors and shall pursue claims against enrollees until final resolution of the~~
13 ~~estate of the liquidated HMO."~~

14 15 NCIUA TECHNICAL CORRECTION

16 Section 6. G.S. 58-45-10 reads as rewritten:

17 "§ 58-45-10. North Carolina Insurance Underwriting Association created.

18 There is hereby created the North Carolina Insurance Underwriting Association,
19 consisting of all insurers authorized to write and engage in writing within this State, on a
20 direct basis, essential property insurance, except town and county mutual insurance
21 associations and assessable mutual companies as authorized by G.S. 58-7-75(5)b, 58-7-
22 75(5)d, and 58-7-75(7)b and except an insurer who only writes insurance in this State on
23 property exempted from taxation by the provisions of ~~G.S. 105-296 and 105-297.~~ G.S. 105-
24 278.1 through G.S. 105-278.8. Every such insurer shall be a member of the Association
25 and shall remain a member of the Association so long as the Association is in existence
26 as a condition of its authority to continue to transact the business of insurance in this
27 State."

28 29 CHILDREN'S HEALTH INSURANCE PORTABILITY

30 Section 7. G.S. 58-68-30(c)(1) reads as rewritten:

31 "(1) Creditable coverage defined. – For the purposes of this Article,
32 'creditable coverage' means, with respect to an individual, coverage of
33 the individual under any of the following:

- 34 a. A self-funded employer group health plan under the Employee
35 Retirement Income Security Act of 1974.
- 36 b. Group or individual health insurance coverage.
- 37 c. Part A or part B of title XVIII of the Social Security Act.
- 38 d. Title XIX of the Social Security Act, other than coverage
39 consisting solely of benefits under section 1928.
- 40 e. Chapter 55 of title 10, United States Code.
- 41 f. A medical care program of the Indian Health Service or of a
42 tribal organization.
- 43 g. A State health benefits risk pool.

- 1 h. A health plan offered under chapter 89 of title 5, United States
2 Code.
3 i. A public health plan (as defined in federal regulations).
4 j. A health benefit plan under section 5(e) of the Peace Corps Act
5 (22 U.S.C. § 2504(e)).
6 k. The Health Insurance Program for Children established in Part 8
7 of Chapter 108A of the General Statutes, or any successor
8 program.
9 'Creditable coverage' does not include coverage consisting solely of
10 coverage of excepted benefits."
11

12 CONDOMINIUM INSURANCE/INDIVIDUAL UNITS

13 Section 8. (a) G.S. 47C-3-113(a) reads as rewritten:

14 "(a) Commencing not later than the time of the first conveyance of a unit to a
15 person other than a declarant, the association shall maintain, to the extent available:

- 16 (1) Property insurance on the common elements ~~and units~~ insuring against
17 all risks of direct physical loss commonly insured against including fire
18 and extended coverage perils. The total amount of insurance after
19 application of any deductibles shall be not less than eighty percent
20 (80%) of the replacement cost of the insured property at the time the
21 insurance is purchased and at each renewal date, exclusive of land,
22 excavations, foundations and other items normally excluded from
23 property policies; and
24 (2) Liability insurance in reasonable amounts, covering all occurrences
25 commonly insured against death, bodily injury and property damage
26 arising out of or in connection with the use, ownership, or maintenance
27 of the common elements.

28 (b) G.S. 47C-3-113(b) reads as rewritten:

29 "~~(b) The insurance maintained under subdivision (a)(1)~~ In the case of a building
30 containing units having horizontal boundaries described in the declaration, the insurance
31 maintained under subdivision (a)(1), to the extent reasonably available, shall include the
32 units, but need not include improvements and betterments installed by unit owners."

33 (c) G.S. 47C-3-113(c) reads as rewritten:

34 "(c) If the insurance described in subsection (a) or (b) of this section is not
35 reasonably available, the association promptly shall cause notice of that fact to be hand-
36 delivered or sent prepaid by United States mail to all unit owners. The declaration may
37 require the association to carry any other insurance, and the association in any event may
38 carry any other insurance it deems appropriate to protect the association or the unit
39 owners."
40

41 SMALL EMPLOYER GROUP HEALTH INSURANCE

42 Section 9. G.S. 58-50-110(14) reads as rewritten:

1 "(14) 'Late enrollee' means ~~an eligible employee or dependent who requests~~
2 ~~enrollment in a health benefit plan of a small employer after the end of~~
3 ~~the initial enrollment period provided under the terms of the health~~
4 ~~benefit plan in effect at the time the employee first became eligible; has~~
5 ~~the same meaning as defined in G.S. 58-68-30(b)(2); provided that the~~
6 ~~initial enrollment period shall be a period of at least 30 consecutive~~
7 ~~calendar days. However, In addition to the special enrollment provisions~~
8 ~~in G.S. 58-68-30(f), an eligible employee or dependent shall not be~~
9 ~~considered a late enrollee under a small employer health benefit plan if:~~

10 a. ~~The individual was covered under a public or private~~
11 ~~health benefit plan that provided, at the time the individual~~
12 ~~was eligible to enroll, benefits equal to or exceeding the~~
13 ~~same required level of benefits in the basic or standard~~
14 ~~health care plans adopted pursuant to G.S. 58-50-120 and~~
15 ~~either the individual:~~

16 1. ~~Lost coverage under another health plan as a result~~
17 ~~of termination of employment, termination of a~~
18 ~~spouse's health plan coverage, or the death of a~~
19 ~~spouse or divorce and requests enrollment in a~~
20 ~~health benefit plan within 30 days after termination~~
21 ~~of coverage provided under another health plan; or~~

22 2. ~~Stated, in writing, during the enrollment period that~~
23 ~~coverage under another employer health benefit~~
24 ~~plan was the reason for declining coverage;~~

25 a. 3, 4. Repealed by Session Laws 1993, c. 529, s. 3.3.

26 b. The individual elects a different health benefit plan
27 offered through the Alliance or by the small employer
28 during an open enrollment period;

29 e. ~~An eligible employee requests enrollment within 30 days~~
30 ~~of becoming an employee of a member small employer;~~

31 d. A court has ordered coverage be provided for a spouse or
32 minor child under a covered employee's health benefit
33 plan and the request for enrollment for a spouse is made
34 within 30 days after issuance of the court order. A minor
35 child shall be enrolled in accordance with the
36 requirements of ~~G.S. 58-51-120; G.S. 58-51-120; or~~

37 e. ~~The individual or employee enrollee makes a request for~~
38 ~~enrollment of the spouse or child within 30 days after the~~
39 ~~individual's or employee's marriage or the birth, adoption,~~
40 ~~or placement for adoption of a child."~~

41 Section 9.1. G.S. 58-50-130(b)(6) reads as rewritten:

1 "(6) For the purposes of subsection (b) of this section, a small employer
2 carrier shall, unless the ~~employer~~ small employer carrier uses composite
3 rating, use the following age brackets:

- 4 a. Younger than 15 years;
5 b. 15 to 19 years;
6 c. 20 to 24 years;
7 d. 25 to 29 years;
8 e. 30 to 34 years;
9 f. 35 to 39 years;
10 g. 40 to 44 years;
11 h. 45 to 49 years;
12 i. 50 to 54 years;
13 j. 55 to 59 years;
14 k. 60 to 64 years;
15 l. 65 years.

16 Carriers may combine, but shall not split, complete age brackets for the
17 purposes of determining rates under subsection (b) of this section. Small
18 employer carriers shall be permitted to develop separate rates for
19 individuals aged 65 years and older for coverage for which Medicare is
20 the primary payor and coverage for which Medicare is not the primary
21 payor."

22 Section 10. G.S. 58-50-130(g) reads as rewritten:

23 "(g) A small employer carrier shall make the information and documentation
24 described in subsection (e) of this section available to the Commissioner upon request.
25 Except in cases of violations of this Act, the information is proprietary and trade secret
26 information and is not subject to disclosure by the Commissioner to persons outside of
27 the Department except as agreed to by the small employer carrier or as ordered by a court
28 of competent jurisdiction. Nothing in this section affects the Commissioner's authority to
29 approve rates before their use under G.S. 58-65-60(e) or G.S. 58-67-50(c)."

30 Section 11. G.S. 58-50-135(a) reads as rewritten:

31 "(a) Every small employer carrier shall elect either to become a risk-assuming
32 carrier and comply with the provisions of G.S. 58-50-140 or become a reinsuring carrier
33 and comply with the provisions of G.S. 58-50-145. The election shall be binding for a
34 five-year period except that ~~the a newly licensed carrier's initial election shall be made~~
35 ~~within 60 days after January 1, 1992, and shall be made for two years.~~ The Commissioner
36 may, for good cause, permit a carrier to modify its election during the five-year period.
37 All carriers under common ownership or control must make the same election in this
38 State; provided, however, that the Commissioner may, for good cause, permit an
39 affiliated carrier to make a separate election."
40

41 **MEDICARE SUPPLEMENT INSURANCE**

42 Section 12. G.S. 58-54-25 reads as rewritten:

43 "**§ 58-54-25. Disclosure standards.**

1 (a) In order to provide for full and fair disclosure in the sale of policies, no
2 policy or certificate shall be delivered in this State unless an outline of coverage is
3 delivered to the applicant at the time application is made.

4 (b) The Commissioner shall prescribe the format and content of the outline of
5 coverage required by subsection (a) of this section. For purposes of this section, 'format'
6 means style, arrangement, and overall appearance, including such items as the size, color,
7 and prominence of type and arrangement of text and captions. Such outline of coverage
8 shall include:

- 9 (1) A description of the principal benefits and coverage provided in the
10 policy;
11 (2) A statement of the exceptions, reductions, and limitations contained in
12 the policy;
13 (3) A statement of the renewal provisions, including any reservation by the
14 insurer of a right to change premiums; and
15 (4) A statement that the outline of coverage is a summary of the policy
16 issued or applied for and that the policy should be consulted to
17 determine governing contractual provisions.

18 (c) The Commissioner may prescribe by rule a standard form and the contents of
19 an informational brochure for persons eligible for Medicare, which is intended to
20 improve the buyer's ability to select the most appropriate coverage and improve the
21 buyer's understanding of Medicare. Except in the case of direct response insurance
22 policies, the Commissioner may require by rule that the information brochure be
23 provided to any prospective insured eligible for Medicare concurrently with delivery of
24 the outline of coverage. With respect to direct response insurance policies, the
25 Commissioner may require by rule that the prescribed brochure be provided upon request
26 to any prospective insured eligible for Medicare, but in no event later than the time of
27 policy delivery.

28 (d) The Commissioner may adopt rules for captions or notice requirements,
29 determined to be in the public interest and designed to inform prospective insureds that
30 particular insurance coverages are not Medicare supplement coverages, for all accident
31 and health insurance policies sold to persons eligible for Medicare, other than: Medicare
32 supplement policies; disability income policies; basic, catastrophic, or major medical
33 expense policies; or single premium, nonrenewable policies.

34 (e) The Commissioner may further adopt rules to govern the full and fair
35 disclosure of the information in connection with the replacement of accident and health
36 insurance policies, subscriber contracts, or certificates by persons eligible for Medicare.

37 (f) No insurer shall use attained age as a structure or methodology for its Medicare
38 supplement insurance rates unless the structure or methodology is fully disclosed to the
39 applicant at the time of application or to the insured at the time of delivery if the purchase
40 is by mail order. All types of solicitation materials shall clearly indicate that the
41 premiums are based on attained age, which means that those premiums will increase each
42 year. The Commissioner shall prescribe by rule the format and content of the attained
43 age rating disclosure notice. The notice shall include:

- 1 (1) A statement that attained age rating means that rates increase as the
2 insured ages or by the age group in which the insured is.
- 3 (2) An illustration based on actual attained age that states the dollar amount
4 of premium increase for the insured over a period of not less than 10
5 policy years and that displays the life expectancy of the insured at the
6 beginning of the period.
- 7 (3) A statement that premiums for other Medicare supplement policies that
8 are on issue age bases do not increase as the insured ages.
- 9 (4) A statement that other Medicare supplement policies that are on issue
10 age bases should be compared to policies on attained age bases."

11 Section 13. Article 54 of Chapter 58 of the General Statutes is amended by
12 adding two new sections to read:

13 **"§ 58-54-45. By reason of disability.**

14 In addition to any rule adopted under this Article that is directly or indirectly related
15 to open enrollment, an insurer shall at least make standardized Medicare Supplement
16 Plan A available to persons eligible for Medicare by reason of disability before age 65.
17 This action shall be taken without regard to medical condition, claims experience, or
18 health status. To be eligible, a person must submit an application during the six-month
19 period beginning with the first month the person first enrolls in Medicare Part B.

20 **"§ 58-54-50. Rules for compliance with federal law and regulations.**

21 The Commissioner may adopt rules necessary to conform Medicare supplement
22 policies and certificates to the requirements of federal law and regulations, including:

- 23 (1) Requiring refunds or credits if the policies or certificates do not meet
24 loss ratio requirements.
- 25 (2) Establishing a uniform methodology for calculating and reporting loss
26 ratios.
- 27 (3) Assuring public access to policies, premiums, and loss ratio information
28 of issuers of Medicare supplement insurance.
- 29 (4) Establishing standards for Medicare Select policies and certificates."

30
31 **LIFE INSURANCE ILLUSTRATIONS**

32 Section 14. G.S. 58-60-5 reads as rewritten:

33 **"§ 58-60-5. Scope of Article; exemptions.**

34 (a) Except as hereafter exempted, otherwise provided in this Article, this Article
35 shall apply-applies to any solicitation, negotiation or procurement of life insurance
36 occurring within this State. This Article shall apply-applies to any issuer of a life insurance
37 contract-contract, including fraternal benefit societies.

38 (b) Unless otherwise specifically included, this Article shall does not apply to:

- 39 (1) Annuities,
- 40 (2) Credit life insurance,
- 41 (3) Group life insurance,

1 (4) Life insurance policies issued in connection with pension and welfare
2 plans as defined by and ~~which~~ that are subject to the federal Employee
3 Retirement Income Security Act of 1974 (ERISA),

4 (5) Variable life insurance under which the death benefits and cash values
5 vary in accordance with unit values of investments held in a separate
6 account.

7 (c) The policy summary in this Article is not required for policies that are sold
8 subject to rules adopted by the Commissioner for life insurance illustrations."

10 CIVIL PENALTY LAW CHANGES

11 Section 15. G.S. 58-2-70 reads as rewritten:

12 "**§ 58-2-70. Civil penalties or restitution for violations; summary suspension of license**
13 **or certificate. administrative procedure.**

14 (a) This section applies to any person who is subject to licensure or certification
15 under the provisions of Articles 1 through 64, 65 and 66, 67, 69, 70, or 71 of this Chapter.

16 (b) Whenever the Commissioner has reason to believe that any person has violated
17 any of the provisions of ~~the statutes cited in subsection (a) of this section, this Chapter,~~ and
18 the violation subjects the license or certification of that person to suspension or
19 revocation, ~~or whenever the Commissioner has reason to believe that any person has violated~~
20 ~~Article 63 of this Chapter, the Commissioner may issue and serve upon that person a written~~
21 ~~statement of charges and a written notice of hearing, to be held at a time and place fixed in the~~
22 ~~notice. The date for the hearing shall not be less than 10 days after the date of service. It shall be~~
23 ~~sufficient to give such notice either by delivering it to the person charged or by sending the~~
24 ~~notice to the last known address of that person by certified mail, return receipt requested. At the~~
25 ~~time and place fixed for the hearing the person charged shall have an opportunity to answer the~~
26 ~~charges against him and present evidence on his behalf. Upon good cause shown, the~~
27 ~~Commissioner may permit any adversely affected person to intervene, appear, and be heard at~~
28 ~~the hearing by counsel or in person. The Commissioner may consolidate a hearing under this~~
29 ~~section with a hearing allowed under G.S. 58-63-25 where there is common subject matter~~
30 ~~involved and subject to procedural requirements set out in both sections being followed. the~~
31 ~~Commissioner may, after notice and opportunity for a hearing, proceed under the~~
32 ~~appropriate subsections of this section.~~

33 (c) ~~In any case where a hearing pursuant to subsection (b) of this section results in~~
34 ~~the findings by the Commissioner of~~ If, under subsection (b) of this section, the
35 Commissioner finds a violation of any of the provisions of the statutes cited in subsection
36 (a) of this section, and the violation subjects the license or certification of that person to
37 suspension or revocation, or findings by the Commissioner of a violation of Article 63 of
38 this Chapter, the Commissioner may, in addition to or ~~in lieu~~ instead of suspending or
39 revoking the license or certification, order the payment of a monetary penalty as provided
40 in subsection (d) of this section or apply to petition the Superior Court of Wake County
41 for an order directing payment of restitution as provided in subsection (e) of this section,
42 or both. Each day during which a violation occurs ~~shall constitute~~ constitutes a separate
43 offense. violation.

1 ~~Upon a finding by the Commissioner of a violation as specified in~~ If the
2 Commissioner orders the payment of a monetary penalty pursuant to subsection (c) of
3 this section, the Commissioner shall direct the payment of a penalty of not shall not be less
4 than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In
5 determining the amount of the penalty, the Commissioner shall consider the degree and
6 extent of harm caused by the violation, the amount of money that inured to the benefit of
7 the violator as a result of the violation, whether the violation was committed willfully,
8 and the prior record of the violator in complying or failing to comply with laws, rules, or
9 orders applicable to the violator. The penalty shall be payable to the Commissioner, who
10 shall then forward the clear proceeds of which to the State Treasurer for deposit in the
11 General Fund of the State. Payment of the civil penalty under this section shall be in
12 addition to payment of any other penalty for a violation of the criminal laws of this State.

13 ~~Upon application-petition of the Commissioner and a finding by the court of a~~
14 ~~violation as specified in subsection (e) of this section,~~ the court may order the person who
15 committed the a violation specified in subsection (c) of this section to make restitution in
16 an amount that would make whole any person harmed by the violation. The petition may
17 be made at any time and also in any appeal of the Commissioner's order.

18 (f) Restitution to any State agency for extraordinary administrative expenses
19 incurred in the investigation and hearing of the violation may also be ordered by the court
20 in such amount that would reimburse the agency for the expenses.

21 (g) Nothing in this section ~~shall prevent~~ prevents the Commissioner from
22 negotiating a mutually acceptable agreement with any person as to the status of the
23 person's license or certificate or as to any civil penalty or restitution.

24 ~~Notwithstanding subsection (b) of this section, if the Commissioner finds that~~
25 ~~the public health, safety, or welfare requires emergency action and incorporates this~~
26 ~~finding in his order, summary suspension of a license or certificate may be ordered~~
27 ~~effective on the date specified in the order or on service of the certified copy of the order~~
28 ~~at the last known address of the licensee, whichever is later, and effective during the~~
29 ~~proceedings to suspend, revoke, or refuse renewal provided for in subsection (b) of this~~
30 ~~section. The proceedings shall be promptly commenced and determined. Unless~~
31 ~~otherwise specifically provided for, all administrative proceedings under this Chapter are~~
32 ~~governed by Chapter 150B of the General Statutes. Appeals of the Commissioner's~~
33 ~~orders under this section shall be governed by G.S. 58-2-75."~~
34

35 NOTICES FROM INDIVIDUAL LICENSEES

36 Section 16. Article 2 of Chapter 58 of the General Statutes is amended by
37 adding a new section to read:

38 **"§ 58-2-69. Notification of criminal convictions and changes of address; service of**
39 **notice.**

40 (a) As used in this section:

41 (1) 'License' includes any license, certificate, registration, or permit issued
42 under this Chapter.

43 (2) 'Licensee' means any person who holds a license.

1 (b) Every applicant for a license shall inform the Commissioner of the applicant's
2 residential address. Every licensee shall give written notification to the Commissioner of
3 any change of the licensee's residential address within 10 business days after the licensee
4 moves into the licensee's new residence. This requirement applies if the change of
5 residential address is by governmental action and there has been no actual change of
6 residence location; in which case the licensee must notify the Commissioner within 10
7 business days after the effective date of the change. A violation of this subsection is not a
8 ground for revocation, suspension, or nonrenewal of the license or for the imposition of
9 any other penalty by the Commissioner.

10 (c) If a licensee is convicted in any court of competent jurisdiction for any crime
11 or offense other than a motor vehicle infraction, the licensee shall notify the
12 Commissioner within 10 days after the date of the conviction. As used in this subsection,
13 'conviction' includes an adjudication of guilt, a plea of guilty, or a plea of nolo
14 contendere.

15 (d) Notwithstanding any other provision of law, whenever the Commissioner is
16 authorized or required to give any notice under this Chapter to a licensee, the notice may
17 be given personally or by sending the notice by first-class mail to the licensee at the
18 address that the licensee has provided to the Commissioner under subsection (b) of this
19 section.

20 (e) The giving of notice by mail under subsection (d) of this section is complete
21 upon the expiration of four days after the deposit of the notice in the post office. Proof of
22 the giving of notice by mail may be made by the certificate of any employee of the
23 Department."

24

25 **INSURANCE AGENTS, BROKERS, AND ADJUSTERS**

26 Section 17. G.S. 58-33-25(h) reads as rewritten:

27 "(h) A partnership or corporation that negotiates or solicits insurance may be
28 licensed as an agent, broker, or limited ~~representative provided that it maintains a place of~~
29 ~~business in this State.~~ representative. Every member of the partnership and every officer,
30 director, stockholder, and employee of the corporation personally engaged in this State in
31 soliciting or negotiating policies of insurance shall be registered with the Commissioner
32 and each such member, officer, director, stockholder or employee shall also qualify as an
33 individual licensee. The partnership or corporate licensee shall within 30 days notify the
34 Commissioner of any addition to or deletion from the list of registered individuals."

35 Section 18. G.S. 58-33-30(j) reads as rewritten:

36 "(j) Reciprocity Provision. – To the extent that other states that provide for the
37 licensing and regulation of and payment of commissions to agents, limited
38 representatives, or brokers, waive restrictions on the basis of reciprocity with respect to
39 North Carolina licensees applying for or holding nonresident licenses in such those states,
40 all such the same restrictions on licensees from such those states applying for or holding
41 North Carolina nonresident licenses shall be waived."

42 Section 19. G.S. 58-33-70 reads as rewritten:

43 "**§ 58-33-70. Special provisions for adjusters and motor vehicle damage appraisers.**

1 (a) It shall be unlawful and cause for revocation of license for a licensed adjuster
2 to engage in the practice of law.

3 (b) On behalf and on request of an insurer by which ~~he is appointed or for which he~~
4 ~~is licensed, any~~ an agent or limited representative is appointed, the agent or limited
5 representative may from time to time act as an adjuster and investigate and report upon
6 claims without being ~~required to be licensed as an adjuster, provided: In no event may any~~
7 adjuster. No agent or limited representative shall adjust any losses in any amount where
8 ~~his~~ the agent's or representative's remuneration for the sale of insurance is in any way
9 dependent upon the adjustment of ~~such~~ those losses.

10 (c) Upon the filing of the application for ~~the license as adjuster and an adjuster's~~
11 license, the advance payment of the examination fee and upon fee, and the filing with the
12 Commissioner of a certificate signed by the ~~employer of the applicant certifying that the~~
13 ~~applicant is an individual of good character and is employed by the signer of the certificate and~~
14 ~~will operate as a student or learner under the instruction and general supervision of a licensed~~
15 ~~adjuster, and that the employer will be responsible for the adjustment acts of the learner during~~
16 ~~the learning period, applicant's employer, the Commissioner may issue to the applicant a~~
17 learner's permit authorizing the applicant to act as an adjuster for a learning period of 90
18 days without a requirement of any other ~~or additional license, provided that not license. Not~~
19 more than one ~~learner~~ learner's permit shall ever be issued to one individual. The
20 employer's certificate required by this subsection shall certify that:

21 (1) The applicant is an individual of good character.

22 (2) The applicant is employed by the signer of the certificate.

23 (3) The applicant will operate as a student or learner under the instruction
24 and general supervision of a licensed adjuster.

25 (4) The employer will be responsible for the adjustment acts of the
26 applicant during the learning period.

27 (d) ~~No license shall be required of an adjuster licensed as such in another state for~~
28 ~~the adjustment in this State of a single loss, or of losses arising out of a catastrophe~~
29 ~~common to all such losses; provided that such adjuster notifies the Commissioner in~~
30 ~~writing prior to the adjusting of such loss or losses.~~

31 (e) The Commissioner may permit an experienced adjuster, who regularly adjusts
32 in another state and who is licensed in ~~such~~ the other state (if ~~such~~ that state requires a
33 license), to act as an adjuster in this State without a North Carolina ~~license, license only~~
34 for an insurance company authorized to do business in this State, for emergency
35 insurance adjustment work, for a period of not exceeding 30 days, to be determined by the
36 Commissioner, done for an employer who is an adjuster licensed by this State or who is a
37 regular employer of one or more adjusters licensed by this State; provided that the
38 employer shall furnish to the Commissioner a notice in writing immediately upon the
39 beginning of any such emergency insurance adjustment work. As used in this subsection,
40 'emergency insurance adjustment work' includes, but is not limited to, (i) adjusting of a
41 single loss or losses arising out of an event or catastrophe common to all of those losses
42 or (ii) adjusting losses in any area declared to be a state of disaster by the Governor under
43 G.S. 166A-6 or by the President of the United States under applicable federal law.

1 (f) The Commissioner may permit an experienced motor vehicle damage appraiser
2 who is regularly appraising in another state and who is licensed in such other state (if
3 ~~such that~~ state requires a license) to act as a motor vehicle damage appraiser in this State
4 without a North Carolina license for emergency motor vehicle damage appraisal work for
5 a period not exceeding 30 days done for an employer who notifies the Commissioner, in
6 writing, at the beginning of the period of emergency appraisal work and who is:

7 (1) An insurance adjuster licensed by this State;

8 (2) A motor vehicle damage appraiser licensed by this State;

9 (3) A regular employer of one or more insurance adjusters licensed by this
10 State; or

11 (4) A regular employer of one or more motor vehicle damage appraisers
12 licensed by this State."

13 Section 20. G.S. 58-33-130(c) reads as rewritten:

14 "(c) ~~On and after January 1, 1992, any individual agent or broker desiring to renew~~
15 ~~an appointment or license shall offer evidence satisfactory to the Commissioner that he~~
16 ~~has complied with the continuing professional education requirements approved by the~~
17 ~~Commissioner.~~ The license of any person who fails to comply with the continuing
18 education requirements under this section shall lapse. The Commissioner may, for good
19 cause shown, grant extensions of time to licensees to comply with these requirements."

20 Section 21. G.S. 58-33-130(h) reads as rewritten:

21 "(h) Any licensee ~~who~~ who, after obtaining an extension under subsection (c) of this
22 section, offers evidence satisfactory to the Commissioner ~~on forms prescribed by the~~
23 Commissioner that he that the licensee has satisfactorily completed the required continuing
24 professional education courses shall be deemed to have complied is in compliance with this
25 section."

26 TOWN AND COUNTY MUTUALS FINANCIAL REPORTS

27 Section 22. G.S. 58-2-165 reads as rewritten:

28 "**§ 58-2-165. Annual, semiannual, monthly, or quarterly statements to be filed with**
29 **Commissioner.**

30 (a) Every insurance company shall file in the Commissioner's office, on or before
31 March 1 of each year, a statement showing the business standing and financial condition
32 of the company, association, or order on the preceding December 31, signed and sworn to
33 by the chief managing agent or officer thereof, before the Commissioner or some officer
34 authorized by law to administer oaths. Provided, the Commissioner may, for good and
35 sufficient cause shown by an applicant company, extend the filing date of the company's
36 annual statement, for a reasonable period of time, not to exceed 30 days. In addition, the
37 Commissioner may require any insurance company, association, or order to file its
38 statement semiannually, quarterly, or ~~monthly.~~ monthly, except that a town or county
39 mutual, organized under G.S. 58-7-75(5)d., is required to file only an annual statement or
40 an audited financial statement that was prepared by a certified public accountant if for the
41 preceding year it had a direct written premium of less than one hundred fifty thousand
42 dollars (\$150,000) and fewer than 400 policyholders.
43

1 (b) The Commissioner may require statements under this section, G.S. 58-2-170,
2 and G.S. 58-2-190 to be filed in a format that can be read by electronic data processing
3 equipment.

4 (c) All statements filed under this section must be prepared in accordance with the
5 appropriate NAIC Annual Statement Instructions Handbook and pursuant to the NAIC
6 Accounting Practices and Procedures Manual and on the NAIC Model Financial
7 Statement Blank, unless further modified by the Commissioner as the Commissioner
8 considers to be appropriate."
9

10 BAIL BONDSMEN AND RUNNERS

11 Section 23. G.S. 58-71-50 reads as rewritten:

12 "§ 58-71-50. Qualification for bail bondsmen and runners.

13 (a) An applicant for a license as a bail bondsman or ~~runner, must~~ runner shall
14 furnish the Commissioner with a complete set of the applicant's fingerprints and a recent
15 passport size full-face photograph of the applicant. The applicant's fingerprints shall be
16 certified by an authorized law-enforcement officer. The fingerprints of every applicant
17 shall be forwarded to the State Bureau of Investigation for a search of the applicant's
18 criminal history record file, if any. If warranted, the State Bureau of Investigation shall
19 forward a set of the fingerprints to the Federal Bureau of Investigation for a national
20 criminal history record check. An applicant shall pay the cost of the State and any
21 national criminal history record check of the applicant.

22 (b) Every applicant for a license under this Article as a bail bondsman or runner
23 must meet all of the following qualifications:

24 (1) Be 18 years of age or over.

25 (2) Be a resident of this State.

26 ~~(3) Be a person of good moral character and not have been convicted of a~~
27 ~~felony or any crime involving moral turpitude.~~

28 (4) Have knowledge, training, or experience of sufficient duration and
29 extent to provide the competence necessary to fulfill the responsibilities
30 of a licensee.

31 (5) Have no outstanding bail bond obligations.

32 (6) Have no current or prior violations of any provision of this Article or of
33 Article 26 of Chapter 15A of the General Statutes or of any similar
34 provision of law of any other state.

35 (7) Not have been in any manner disqualified under the laws of this State or
36 any other state to engage in the bail bond business."

37 Section 24. G.S. 58-71-80 reads as rewritten:

38 "§ 58-71-80. Grounds for denial, suspension, revocation or refusal to renew licenses.

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

41 (1) For any cause sufficient to deny, suspend, or revoke the license under
42 any other provision of this Article.

- 1 (2) ~~Violation of any laws of this State relating to bail~~ A conviction of any
2 misdemeanor committed in the course of dealings under the license
3 issued by the Commissioner.
- 4 (3) Material misstatement, misrepresentation or fraud in obtaining the
5 license.
- 6 (4) Misappropriation, conversion or unlawful withholding of moneys
7 belonging to insurers or others and received in the conduct of business
8 under the license.
- 9 (5) Fraudulent or dishonest practices in the conduct of business under the
10 license.
- 11 (6) ~~Conviction of a felony regardless of the time the conviction occurred~~
12 ~~and regardless of whether the conviction resulted from conduct in or~~
13 ~~related to the bail bond business.~~ crime involving moral turpitude.
- 14 (7) Failure to comply with or violation of the provisions of this Article or of
15 any order, rule or regulation of the Commissioner.
- 16 (8) When in the judgment of the Commissioner, the licensee has in the
17 conduct of the licensee's affairs under the license, demonstrated
18 incompetency, financial irresponsibility, or untrustworthiness; or that
19 the licensee is no longer in good faith carrying on the bail bond
20 business; or that the licensee is guilty of rebating, or offering to rebate,
21 or offering to divide the premiums received for the bond.
- 22 (9) For failing to pay any judgment or decree rendered on any forfeited
23 undertaking in any court of competent jurisdiction.
- 24 (10) For charging or receiving, as premium or compensation for the making
25 of any deposit or bail bond, any sum in excess of that permitted by this
26 Article.
- 27 (11) For requiring, as a condition of executing a bail bond, that the principal
28 agree to engage the services of a specified attorney.
- 29 (12) For cheating on an examination for a license under this Article.
- 30 (13) For entering into any business association or agreement with any person
31 who is at that time found by the Commissioner to be in violation of any
32 of the bail bond laws of this State, or who has been in any manner
33 disqualified under the bail bond laws of this State or any other state,
34 whereby the person has any direct or indirect financial interest in the
35 bail bond business of the licensee or applicant.
- 36 (14) For knowingly aiding or abetting others to evade or violate the
37 provisions of this Article.
- 38 (15) Any cause for which issuance of the license could have been refused
39 had it then existed and been known to the Commissioner at the time of
40 issuance.
- 41 ~~(b) The Commissioner, in lieu of revoking or suspending a license in accordance~~
42 ~~with the provisions of this Article, may, in any one proceeding, by order, require the~~
43 ~~licensee to pay to the school fund in the licensee's county of residence a civil penalty of~~

1 ~~two hundred fifty dollars (\$250.00) for each offense. Upon the licensee's failure to pay~~
2 ~~the penalty within 20 days after the order is mailed, postage prepaid, registered and~~
3 ~~addressed to the licensee's last known place of business, unless the order is stayed by an~~
4 ~~order of the court of competent jurisdiction or unless the Commissioner has already~~
5 ~~suspended or revoked the license of the licensee, the Commissioner may revoke the~~
6 ~~license or may suspend the license for any period.~~

7 (b) The Commissioner shall deny, revoke, or refuse to renew any license under
8 this Article if the applicant or licensee is or has ever been convicted of a felony."

9 Section 25. G.S. 58-71-71(a) reads as rewritten:

10 "(a) In order to be eligible to take the examination required to be licensed as a
11 runner or bail bondsman under G.S. 58-71-70, each person shall complete at least ~~20~~12
12 hours of education in subjects pertinent to the duties and responsibilities of a runner or
13 bail bondsman, including all laws and regulations related to being a runner or bail
14 bondsman."

15 Section 26. G.S. 58-71-71(b) reads as rewritten:

16 "(b) Each year every licensee shall complete at least ~~40~~six hours of continuing
17 education in subjects related to the duties and responsibilities of a runner or bail
18 bondsman before renewal of the license. This continuing education shall not include a
19 written or oral examination. A person who receives his first license on or after January 1
20 of any year does not have to comply with this subsection until the period between his first
21 and second license renewals."

22 Section 27. G.S. 58-71-165 reads as rewritten:

23 **"§ 58-71-165. Monthly report required.**

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

34 Section 28. G.S. 58-71-71(e) reads as rewritten:

35 "(e) ~~Any person who falsely represents to the Commissioner that the requirements~~
36 ~~of this section have been met is subject, after notice and opportunity for hearing, to G.S.~~
37 ~~58-2-70. The license of any person who fails to comply with the continuing education~~
38 ~~requirements under this section shall lapse. The Commissioner may, for good cause~~
39 ~~shown, grant extensions of time to licensees to comply with these requirements. Any~~
40 ~~licensee who, after obtaining an extension under this subsection, offers evidence~~
41 ~~satisfactory to the Commissioner that the licensee has satisfactorily completed the~~
42 ~~required continuing professional education courses is in compliance with this section."~~

43 Section 29. G.S. 58-71-85(a) reads as rewritten:

1 (a) The suspension or revocation of, or refusal to renew, any license under G.S.
2 58-71-80 shall be in accordance with the provisions of ~~Article 3A of~~ Chapter 150B of the
3 General Statutes."

4 Section 30. G.S. 58-71-20 reads as rewritten:

5 **"§ 58-71-20. Surrender of defendant by surety; when premium need not be**
6 **returned.**

7 At any time before there has been a breach of the undertaking in any type of bail or
8 fine and cash bond the surety may surrender the defendant to the official to whose
9 custody the defendant was committed at the time bail was taken, or to the official into
10 whose custody the defendant would have been given had he been committed; in such case
11 the full premium shall be ~~returned~~ returned within 72 hours after the surrender. The
12 defendant may be surrendered without the return of premium for the bond if ~~he has been~~
13 ~~guilty of nonpayment of premium, changing address without notifying his bondsman, concealing~~
14 ~~himself, leaving the jurisdiction of the court without the permission of his bondsman or violating~~
15 ~~his obligation to the court.~~ the defendant does any of the following:

- 16 (1) Willfully fails to pay the premium to the surety or willfully fails to
17 make a premium payment under the agreement specified in G.S. 58-71-
18 167.
19 (2) Changes his or her address without notifying the surety before the
20 address change.
21 (3) Physically hides from the surety.
22 (4) Leaves the State without the permission of the surety.
23 (5) Violates any order of the court."

24 Section 31. G.S. 58-71-95(5) reads as rewritten:

25 "(5) Accept anything of value from a principal or from anyone on behalf of a
26 principal except the premium, which shall not exceed fifteen percent
27 (15%) of the face amount of the bond; provided that the bondsman shall
28 be permitted to accept collateral security or other indemnity from a
29 principal or from anyone on behalf of a principal. Such collateral
30 security or other indemnity required by the bondsman must be
31 reasonable in relation to the amount of the bond and shall be returned
32 ~~upon~~ within 72 hours after final termination of liability on the bond."
33

34 VIATICAL SETTLEMENT PROVIDERS

35 Section 32. G.S. 58-58-42(j) reads as rewritten:

36 "(j) Authority to Adopt Standards. – The Commissioner may:

- 37 (1) Adopt rules to implement this section.
38 (2) Establish standards for evaluating reasonableness of payments under
39 contracts. This authority includes regulation of discount rates used to
40 determine the amount paid in exchange for assignment, transfer, sale,
41 devise, or bequest of a benefit under a policy.
42 (3) Establish appropriate registration and other regulatory requirements for
43 brokers.

1 (4) Require a bond."
2

3 HOME INSPECTORS

4 Section 33. G.S. 143-151.45 reads as rewritten:

5 **"§ 143-151.45. Definitions.**

6 The following definitions apply in this Article:

- 7 (1) Associate home inspector. – An individual who is affiliated with or
8 employed by a licensed home inspector to conduct a home inspection of
9 a residential building on behalf of the licensed home inspector.
- 10 (2) Board. – The North Carolina Home Inspector Licensure Board.
- 11 (3) Compensation. – A fee or anything else of value.
- 12 (4) Home inspection. – A written evaluation of ~~one~~two or more of the
13 following components of a residential building: heating system, cooling
14 system, plumbing system, electrical system, structural components,
15 foundation, roof, masonry structure, exterior and interior components,
16 or any other related residential housing component.
- 17 (5) Home inspector. – An individual who engages in the business of
18 performing home inspections for compensation.
- 19 (6) Residential building. – A structure intended to be, or that is in fact, used
20 as a residence by one or more individuals."

21 Section 34. G.S. 143-151.52 reads as rewritten:

22 **"§ 143-151.52. Requirements to be licensed as an associate home inspector.**

23 To be licensed as an associate home inspector, a person must do all of the following:

- 24 (1) Submit a completed application to the Board upon a form provided by
25 the Board.
- 26 (2) Pass a licensing examination prescribed by the Board.
- 27 (3) Pay the applicable fees.
- 28 (4) Have a high school diploma or its equivalent.
- 29 (5) Be employed by or affiliated with or intend to be employed by or
30 affiliated with a licensed home inspector and submit a sworn statement
31 by the that licensed home inspector ~~with whom the applicant is or intends~~
32 to be affiliated certifying that the licensed home inspector will actively
33 supervise and train the applicant."

34 Section 35. G.S. 143-151.53 reads as rewritten:

35 **"§ 143-151.53. Notification ~~of~~ to applicant following evaluation of application.**

36 ~~The Board must review each application for a license submitted to it and must notify~~
37 ~~each applicant that the application is either accepted or rejected. The Board must send the~~
38 ~~notification of acceptance or rejection within 30 days of receiving the application. If the~~
39 ~~Board rejects an application, the notice sent to the applicant must state the reasons for the~~
40 ~~rejection. If the Board finds that the applicant has not met fully the requirements for~~
41 licensing, the Board shall refuse to issue the license and shall notify in writing the
42 applicant of the denial, stating the grounds of the denial. The application may also be
43 denied for any reason for which a license may be suspended or revoked or not renewed

1 under G.S. 143-151.56. Within 30 days after service of the notification, the applicant
2 may make a written demand upon the Board for a review to determine the reasonableness
3 of the Board's action. The review shall be completed without undue delay, and the
4 applicant shall be notified promptly in writing as to the outcome of the review. Within
5 30 days after service of the notification as to the outcome, the applicant may make a
6 written demand upon the Board for a hearing under Article 3A of Chapter 150B of the
7 General Statutes if the applicant disagrees with the outcome."

8 Section 36. G.S. 143-151.56 reads as rewritten:

9 **"§ 143-151.56. Suspension, revocation, and refusal to renew license.**

10 (a) The Board may deny or refuse to issue or renew a license, may suspend or
11 revoke a license, or may impose probationary conditions on a license if the license holder
12 or applicant for licensure has engaged in any of the following conduct:

- 13 (1) Employed fraud, deceit, or misrepresentation in obtaining or attempting
14 to obtain or renew a license.
- 15 (2) Committed an act of malpractice, gross negligence, or incompetence in
16 the practice of home inspections.
- 17 (3) Without having a current license, either performed home inspections for
18 compensation or claimed to be licensed.
- 19 (4) Engaged in conduct that could result in harm or injury to the public.
- 20 (5) Been convicted of or pled guilty or nolo contendere to any ~~crime~~
21 misdemeanor involving moral turpitude or to any felony.
- 22 (6) Been adjudicated ~~insane or incompetent and has not presented proof of~~
23 recovery from the condition ~~incompetent~~.
- 24 (7) Engaged in any act or practice that violates any of the provisions of this
25 Article or any rule issued by the Board, or aided, abetted, or assisted any
26 person in a ~~violation~~ violation of any of the provisions of this Article.

27 (b) A denial of licensure, refusal to renew, suspension, revocation, or imposition
28 of probationary conditions upon a license holder may be ordered by the Board after a
29 hearing held in accordance with Article 3A of Chapter 150B of the General Statutes and
30 rules adopted by the Board. An application may be made to the Board for reinstatement
31 of a revoked license if the revocation has been in effect for at least one year."

32
33 **MANUFACTURED HOME DEALERS**

34 Section 37. Article 9A of Chapter 143 of the General Statutes is amended by
35 adding a new section to read:

36 **"§ 143-143.21B. Dealer cancellation; deposit refund.**

37 A dealer shall refund to a buyer the full amount of a deposit on the purchase of a
38 manufactured home if the buyer has fulfilled his obligations under the purchase
39 agreement and the dealer cancels the purchase at any time."

40
41 **PROXY VOTES FOR MUTUALS**

42 Section 37.1. (a) G.S. 58-8-10 reads as rewritten:

43 **"§ 58-8-10. Policyholders are members of mutual companies.**

1 Every person insured by a mutual insurance company is a member while ~~his~~that
2 person's policy is in force, entitled to one vote for each policy ~~he~~that person holds, and
3 must be notified of the time and place of holding ~~its~~the company's meetings by a written
4 notice or by an imprint upon the back of each policy, receipt, or certificate of renewal, as
5 follows:

6 The insured is hereby notified that by virtue of this policy ~~he~~the
7 insured is a member of the insurance company, and that the annual
8 meetings of the company are held at its home office on the day of
9, in each year, at o'clock.

10 The blanks shall be duly filled in print and are a sufficient notice. A corporation ~~which~~
11 that becomes a member of ~~such a mutual insurance~~ company may authorize any person to
12 represent it, ~~the corporation~~; and this representative has all the rights of an individual
13 member. A person holding property in trust may insure it in ~~such a mutual insurance~~
14 company, and as trustee assume the liability and be entitled to the rights of a ~~member,~~
15 member; but is not personally liable upon the contract of insurance. Members may vote
16 by proxies, dated and executed within ~~three months,~~ one year after receipt, and returned
17 and recorded on the books of the company three days or more before the meeting at
18 which they are to be used; ~~but no person as proxy or otherwise may cast more than 20 votes.~~
19 used."

20 (b) This section is effective when it becomes law.

21

22 FORM FILINGS FOR LICENSED CARRIERS

23 Section 37.3. (a) G.S. 58-3-150(a) reads as rewritten:

24 "(a) It is unlawful for any insurance company ~~doing~~ licensed and admitted to do
25 business in this State to issue, sell, or dispose of any policy, contract, or certificate, or use
26 applications in connection therewith, until the forms of the same have been submitted to
27 and approved by the Commissioner, and copies filed in the Department. If a policy form
28 filing is disapproved by the Commissioner, the Commissioner may return the filing to the
29 filer. As used in this section, 'policy form' includes endorsements, riders, or amendments
30 to policies that have already been approved by the Commissioner."

31 (b) This section becomes effective November 1, 1998.

32

33 EFFECT OF HEADINGS

34 Section 38. The headings to the parts of this act are a convenience to the
35 reader and are for reference only. The headings do not expand, limit, or define the text of
36 this act.

37

38 EFFECTIVE DATES

39 Section 39. Except as otherwise provided herein, this act is effective as
40 follows: this section and Sections 1, 2, 3, 4, 5, 6, 7, 9.1, 10, 11, 14, 15, 17, 18, 22, 27, 29,
41 32, 33, 34, 37.1, and 38 of this act are effective when they become law. Sections 9, 12,
42 13, 19, 20, 21, 23, 24, 25, 28, 30, 31, 35, 36, and 37 of this act become effective

- 1 November 1, 1998. Sections 8, 16, and 26 of this act become effective January 1, 1999.
- 2 G.S. 58-54-45, as enacted by Section 13 of this act, expires November 1, 2001.