

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 843

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

House Committee Substitute Favorable 8/18/97

House Committee Substitute #2 Favorable 8/28/97

House Committee Substitute #3 Favorable 8/28/97

Short Title: Insurance Changes.

(Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO REPEAL OBSOLETE LAWS AND MAKE TECHNICAL AND CLARIFYING AMENDMENTS AND CORRECTIONS IN VARIOUS INSURANCE STATUTES; TO EXTEND THE EXPIRATION DATE OF THE 1986 RISK SHARING PLAN LAW; TO PROVIDE FOR THE LICENSING AND REGULATION OF ENTITIES THAT ADMINISTER WORKERS' COMPENSATION INSURANCE FOR GROUPS OF EMPLOYERS THAT SELF-INSURE; AND TO AMEND THE LAW GOVERNING AGENTS.

The General Assembly of North Carolina enacts:

PART I. REPEALS OF OBSOLETE OR UNNECESSARY PROVISIONS.

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 G.S. 58-3-125, 58-6-10, 58-7-150, 58-41-35, and 58-71-90 are repealed.

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

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

The Commissioner shall biennially submit to the General Assembly, through the Governor, a report of his official acts, including a summary of official rulings and

1 regulations.—The Commissioner shall, from time to time, report to the Governor and the  
2 General Assembly any change which that in his—the Commissioner's opinion should be  
3 made in the laws relating to insurance and other subjects pertaining to his department. On  
4 or before the first day of February of each year in which the General Assembly is in  
5 session he shall make to the Governor the recommendations called for in this section, to  
6 be transmitted to the General Assembly, with the last annual report of this Department,  
7 including receipts and disbursements. the Department."

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

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

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

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

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

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

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

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

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

40 "**§ 58-3-115. Twisting with respect to insurance policies; penalties.**

41 No insurer shall make or issue, or cause to be issued, any written or oral statement that  
42 willfully misrepresents or willfully makes an incomplete comparison as to the terms,  
43 conditions, or benefits contained in any policy of insurance for the purpose of inducing or

1 attempting to induce a policyholder in any way to terminate or surrender, exchange, or  
2 convert any insurance policy. Any person who violates this section is subject to the  
3 provisions of ~~G.S. 58-2-70, 58-3-90 through 58-3-100, and 58-3-125.~~ G.S. 58-2-70 or G.S.  
4 58-3-100."

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

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

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

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

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

29 **PART II. AMENDMENTS NECESSARY BECAUSE OF 1995 REWRITE OF G.S.**  
30 **58-2-50.**

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

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

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

1 (5) Is determined by the Commissioner to contain provisions that are not  
2 fair and reasonable to the insurer.  
3 Failure of the Commissioner to disapprove any such contract within 30 days after the  
4 contract has been filed with the Commissioner constitutes the Commissioner's approval  
5 of the contract. An insurer may continue to accept business from ~~such the~~ person until the  
6 Commissioner disapproves the contract. Any disapproval shall be in writing. The  
7 Commissioner ~~may, after a hearing held under G.S. 58-2-50, may~~ withdraw approval of any  
8 contract the Commissioner has previously approved ~~upon finding if the Commissioner~~  
9 determines that the basis of the original approval no longer exists or that the contract has,  
10 in actual operation, shown itself to be subject to disapproval on any of the grounds in this  
11 subsection. If the Commissioner withdraws approval of a contract, the Commissioner  
12 shall give the insurer notice of, and written reasons for, the withdrawal of approval. The  
13 Commissioner shall grant any party to the contract a hearing upon request."

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

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

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

21 "**§ 58-40-100. Request for review of rate, rating plan, rating system or underwriting**  
22 **rule.**

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

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

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

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

1 If the Commissioner finds, after a ~~hearing held in accordance with G.S. 58-2-50, hearing,~~  
2 that in all or any part of this State, any amount or kind of insurance authorized by G.S.  
3 58-7-15(4) through G.S. 58-7-15(22) is not readily available in the voluntary market  
4 and that the public interest requires the availability of that insurance, ~~he—the~~  
5 Commissioner may either:

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

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

12 **"§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from**  
13 **Commissioner to superior court.**

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

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

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

42 **"§ 58-45-70. Commissioner may examine affairs of Association.**

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

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

8 "(c) The Commissioner may designate the kinds of property insurance policies on  
9 principal residences to be offered by the association, including insurance policies under  
10 Article 36 of this Chapter, and the commission rates to be paid to agents or brokers for  
11 these policies, if ~~he the Commissioner~~ finds, after a ~~hearing held in accordance with G.S. 58-~~  
12 ~~2-50, hearing,~~ that the public interest requires the designation. The provisions of Chapter  
13 150B of the General Statutes do not apply to any procedure under this subsection, except  
14 that G.S. 150B-39 and G.S. 150B-41 shall apply to a hearing under this subsection.  
15 Within 30 days after the receipt of notification from the Commissioner of a change in  
16 designation ~~pursuant to~~ under this subsection, the association shall submit a revised plan  
17 and articles of association for approval in accordance with subsection (b) of this section."

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

19 "**§ 58-46-30. Appeals; judicial review.**

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

36 No later than 20 days before each hearing, the appellant shall file with the  
37 Commissioner or ~~his the~~ designated hearing officer and shall serve on the appellee a  
38 written statement of ~~his the~~ appellant's case and any evidence ~~he that the~~ appellant intends  
39 to offer at the hearing. No later than five days before ~~such the~~ hearing, the appellee shall  
40 file with the Commissioner or ~~his the~~ designated hearing officer and shall serve on the  
41 appellant a written statement of ~~his the~~ appellee's case and any evidence ~~he that the~~  
42 appellee intends to offer at the hearing. ~~Each such hearing shall be recorded and transcribed.~~  
43 ~~The cost of such recording and transcribing shall be borne equally by the appellant and appellee;~~

1 provided that upon any final adjudication the prevailing party shall be reimbursed for his share of  
2 such costs by the other party. The procedures governing recordings of hearings and, if  
3 necessary, transcripts of recordings, as well as the fees for copies of recordings and  
4 transcripts, shall be determined by rules adopted by the Commissioner. Each party shall,  
5 on a date determined by the Commissioner or ~~his~~ the designated hearing officer, but not  
6 sooner than 15 days after delivery of the completed transcript to the party, submit to the  
7 Commissioner or ~~his~~ the designated hearing officer and serve on the other party, a  
8 proposed order. The Commissioner or ~~his~~ the designated hearing officer shall then issue  
9 an order."

10 **PART III. CONTINUING CARE RETIREMENT COMMUNITY NAME**  
11 **CORRECTION AND RECEIVERSHIPS.**

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

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

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

21 **"ARTICLE 64.**

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

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

25 **"§ 58-64-1. Definitions.**

26 As used in this Article, unless otherwise specified:

- 27 (1) 'Continuing care' means the furnishing to an individual other than an  
28 individual related by blood, marriage, or adoption to the person  
29 furnishing the care, of lodging together with nursing services,  
30 medical services, or other health related services, ~~pursuant to~~ under  
31 an agreement effective for the life of the individual or for a period ~~in~~  
32 ~~excess of~~ longer than one year.
- 33 (2) 'Entrance fee' means a payment that assures a resident a place in a  
34 facility for a term of years or for life.
- 35 (3) 'Facility' means the ~~place or places~~ retirement community or  
36 communities in which a provider undertakes to provide continuing  
37 care to an individual.
- 38 (4) 'Health related services' means, at a minimum, nursing home  
39 admission or assistance in the activities of daily living, exclusive of  
40 the provision of meals or cleaning services.
- 41 (5) 'Living unit' means a room, apartment, cottage, or other area within a  
42 facility set aside for the exclusive use or control of one or more  
43 identified residents.

1 (6) 'Provider' means the promoter, developer, or owner of a ~~continuing~~  
2 ~~care~~—facility, whether a natural person, partnership, or other  
3 unincorporated association, however organized, trust, or corporation,  
4 of an institution, building, residence, or other place, whether  
5 operated for profit or not, or any other person, that solicits or  
6 undertakes to provide continuing care under a continuing care  
7 facility contract, or that represents ~~himself~~—himself, herself, or itself  
8 as providing continuing care or 'life care.'

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

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

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

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

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

23 "**§ 58-64-80. Advisory Committee.**

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

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

32 "**§ 58-64-46. Receiverships; exception for facility beds.**

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

40 **PART IV. WORKERS' COMPENSATION LOSS COSTS CONFORMING**  
41 **CHANGES.**

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



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

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

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

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

15       **"§ 58-36-10. Method of rate making; factors considered.**

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

17           (1) Rates or loss costs shall not be excessive, inadequate or unfairly  
18           discriminatory.

19           (2) Due consideration shall be given to actual loss and expense  
20           experience within this State for the most recent three-year period for  
21           which ~~such~~that information is available; to prospective loss and  
22           expense experience within this State; to the hazards of conflagration  
23           and catastrophe; to a reasonable margin for underwriting profit and  
24           to contingencies; to dividends, savings, or unabsorbed premium  
25           deposits allowed or returned by insurers to their policyholders,  
26           members, or subscribers; to investment income earned or realized by  
27           insurers from their unearned premium, loss, and loss expense reserve  
28           funds generated from business within this State; to past and  
29           prospective expenses specially applicable to this State; and to all  
30           other relevant factors within this State: Provided, however, that  
31           countrywide expense and loss experience and other countrywide  
32           data may be considered only where credible North Carolina  
33           experience or data is not available.

34           (3) In the case of fire insurance rates, as are subject to the ratemaking  
35           authority of the Bureau, consideration may be given to the  
36           experience of such fire insurance business during the most recent  
37           five-year period for which ~~such~~that experience is available. In the  
38           case of fire insurance rates that are subject to the ratemaking  
39           authority of the Bureau, consideration shall be given to the insurance  
40           public protection classifications of rural fire districts based upon  
41           standards established by the Commissioner. To the extent credits are  
42           provided for proximity to fire hydrants, the Bureau may also provide  
43           appropriate credits in public protection classifications for optional

1 water sources, such as ponds, lakes, or other bodies of water, in  
2 accordance with standards and procedures filed with and approved  
3 by the Commissioner.

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

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

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

29 "(a) The Bureau shall file with the Commissioner copies of the rates, loss costs,  
30 classification plans, rating plans and rating systems used by its members. Each rate or  
31 loss costs filing shall become effective on the date specified in the filing, but not earlier  
32 than 105 days ~~from~~ after the date the filing is received by the Commissioner: Provided  
33 that (1) rate or loss costs filings for workers' compensation insurance and employers'  
34 liability insurance written in connection therewith shall not become effective earlier than  
35 120 days from the date the filing is received by the Commissioner or on the date as  
36 provided ~~under~~ in G.S. 58-36-100, whichever is earlier; and (2) any filing may become  
37 effective on a date earlier than that specified in this subsection upon agreement between  
38 the Commissioner and the Bureau."

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

40 "(f) On or before September 1 of each calendar ~~year~~ year, or later with the approval  
41 of the Commissioner, the Bureau shall submit to the Commissioner the experience, data,  
42 statistics, and information referred to in subsection (c) of this section and required under  
43 G.S. 58-36-100 and a residual market rate ~~or~~ and prospective loss costs review based on

1 ~~such~~ those data for workers' compensation insurance and employers' liability insurance  
2 written in connection therewith. Any rate or loss costs increase for ~~such~~ that insurance  
3 that is implemented ~~pursuant to~~ under this Article shall become effective solely to ~~such~~  
4 ~~insurance as is written having~~ insurance with an inception date on or after the effective date  
5 of the rate or loss costs increase."

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

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

9 (1) A detailed list of the rates, loss costs, rules, and policy forms filed,  
10 accompanied by a list of those superseded; and

11 (2) A detailed description, properly referenced, of all changes in policy  
12 forms, rules, prospective loss costs, and rates, including the effect of  
13 each change."

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

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

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

34 "(c) ~~Any deviation with respect to workers' compensation and employers' liability~~  
35 ~~insurance written in connection therewith as filed under subsection (a) of this section~~  
36 ~~shall apply uniformly to all classifications.~~ Any approved rate under subsection (b) of  
37 this section with respect to workers' compensation and employers' liability insurance  
38 written in connection therewith shall be furnished to the Bureau."

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

40 "(a) ~~Nothing in this section requires the Bureau or its member insurers to refile~~  
41 ~~rates previously implemented before two years after the effective date of this section.~~  
42 ~~Any member insurer of the Bureau may continue to use all rates and deviations filed and~~  
43 ~~approved for its use until disapproved, or the insurer makes its own filing to change its~~

1 rates, either by making an independent filing or by filing a reference filing adoption form  
2 adopting the Bureau's prospective loss costs, or modification thereof. Except as provided  
3 in subsection ~~subsections~~ (k) and (m) of this section, with the initial prospective loss  
4 costs reference filing, the Bureau shall no longer develop or file any minimum premiums,  
5 minimum premium formulas, or expense constants. If an insurer wishes to amend  
6 minimum premium formulas, formulas or expense constants, it must file the minimum  
7 premium rules, formulas, or amounts it proposes to use. A copy of each filing submitted  
8 to the Commissioner under subsections (e) and (g) of this section shall also be sent to the  
9 Bureau."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **"§ 58-7-177. Investments in ~~subsidiaries and affiliated corporations.~~ subsidiaries."**

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

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

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

27 **"§ 58-8-25. Dividends to policyholders.**

28 (a) Any participating or dividend-paying company, stock or mutual or foreign or  
29 domestic, that writes other than life insurance or workers' compensation insurance and  
30 employers' liability insurance in connection therewith, may declare and pay a dividend to  
31 policyholders from its ~~surplus,~~ unassigned surplus as reflected in the company's most  
32 recent annual or quarterly statement filed with the Commissioner, which shall include  
33 only its surplus in excess of any required minimum surplus. No such dividend shall be  
34 paid unless it is fair and equitable and for the best interest of the company and its  
35 policyholders. In declaring any dividend to its policyholders, any such company may  
36 make reasonable classifications of policies expiring during a fixed period, upon the basis  
37 of each general kind of insurance covered by ~~such those~~ policies and by territorial  
38 divisions of the location of risks by states, except that in fixing the amount of dividends  
39 to be paid on each general kind of insurance, ~~which the~~ dividends shall be uniform in rate  
40 and applicable to the majority of risks within ~~such that~~ general kind of insurance, and  
41 exceptions may be made as to any class or classes of risk and a different rate or amount  
42 of dividends paid on ~~such the~~ class or classes if the conditions applicable to ~~such the~~ class  
43 or classes differ substantially from the condition applicable to the kind of insurance as a

1 whole. Every such company shall have an equal rate of dividend for the same term on all  
2 policies insuring risks in the same classification. The payment of dividends to  
3 policyholders shall not be contingent upon the maintenance or renewal of the policy. All  
4 dividends shall be paid to the policyholder unless a written assignment ~~thereof be of those~~  
5 dividends is executed. Neither the payment of dividends nor the rate ~~thereof of the~~  
6 dividends may be guaranteed by any company, or its agent, ~~prior to before~~ the declaration  
7 of the dividend by the board of directors of ~~such the~~ company. The holders of policies of  
8 insurance issued by a company in compliance with the orders of any public official,  
9 bureau or committee, in conformity with any statutory requirement or voluntary  
10 arrangement, for the issuance of insurance to risks not otherwise acceptable to the  
11 company, may be established as a separate class of risks.

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

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

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

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

41 "(b) An insurer shall not engage the services of any person to act as a broker on its  
42 behalf unless the person is licensed ~~under G.S. 58-9-6~~ or exempted under this Article. An  
43 insurer shall not employ an individual who is employed by a broker with which it

1 transacts business, unless the broker is under common control with the insurer under  
2 Article 19 of this Chapter."

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

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

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

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

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

10 **"§ 58-13-10. Scope.**

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

17 (b) This Article does not apply to:

18 (1) Variable contracts for which separate accounts are required to be  
19 maintained.

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

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

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

25 **"§ 58-13-15. Definitions.**

26 As used in this Article:

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

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

33 (3) 'Reserve assets' means those assets of an insurer that are authorized  
34 investments for policy reserves in accordance with ~~Articles 1 through~~  
35 ~~64 of this Chapter and G.S. 58-65-95.~~ this Chapter.

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

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

41 "(b) The Commissioner ~~has the right to~~ may examine any of ~~such~~ these assets,  
42 reinsurance agreements, or deposit arrangements at any time in accordance with ~~his~~ the



1 Commissioner's authority to make examinations of insurers as conferred by other  
2 provisions of Articles 1 through 64 of this Chapter."

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

4 "(5) 'Person' means an individual, corporation, partnership, limited  
5 liability company, association, joint stock company, trust,  
6 unincorporated organization, or any similar entity or any  
7 combination of the foregoing acting in concert."

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

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

## 28 **PART VI. HANDICAPPED PERSONS.**

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

### 30 **"§ 168-10. Eliminate discrimination in treatment of handicapped and disabled.**

31 Each handicapped person shall have the same consideration as any other person for  
32 individual accident and health insurance coverage, and no insurer, service corporation,  
33 multiple employer welfare arrangement, or health maintenance organization subject to  
34 Chapter 58 of the General Statutes solely on the basis of ~~such~~the person's handicap, shall  
35 deny ~~such~~ coverage or benefits. The availability of ~~such~~ insurance coverage or benefits  
36 shall not be denied solely ~~due to~~because of the handicap, ~~provided, however, that no such~~  
37 ~~insurer shall be prohibited from excluding by waiver or otherwise, any pre-existing conditions~~  
38 ~~from such coverage, and further provided that~~ handicap; however, any such insurer may  
39 charge the appropriate premiums or fees for the risk insured on the same basis and  
40 conditions as insurance issued to other ~~persons~~persons, in accordance with actuarial and  
41 underwriting principles prescribed in Chapter 58 of the General Statutes. ~~Nothing~~  
42 contained herein or in any other statute shall restrict or preclude any insurer governed by Chapter  
43 58 of the General Statutes from setting and charging a premium or fee based upon the class or

1 classes of risks and on sound actuarial and underwriting principles as determined by such  
2 insurer, or from applying its regular underwriting standards applicable to all classes of risks. The  
3 provisions of this section shall apply to both corporations governed by Chapter 58 of the General  
4 Statutes."

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

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

#### 11 PART VII. AUTOMOBILE INSURANCE.

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

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

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

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

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

36 With respect to motor carriers who are subject to the financial  
37 responsibility requirements established under the Motor Carrier Act of  
38 1980, the term, 'motor vehicle insurance' includes coverage with respect  
39 to environmental restoration. As used in this subsection the term,  
40 'environmental restoration' means restitution for the loss, damage, or  
41 destruction of natural resources arising out of the accidental discharge,  
42 dispersal, release, or escape into or upon the land, atmosphere, water  
43 course, or body of water of any commodity transported by a motor

1 carrier. Environmental restoration includes the cost of removal and the  
2 cost of necessary measures taken to minimize or mitigate damage to  
3 human health, the natural environment, fish, shellfish, and wildlife."

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

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

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

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

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

14 Underinsured motorist: one ~~hundred thousand~~ million dollars ~~(\$100,000)~~  
15 ~~(\$1,000,000)~~ each person and ~~three hundred thousand dollars~~ ~~(\$300,000)~~  
16 each accident for bodily injury liability;

17 Uninsured motorist: one ~~hundred thousand~~ million dollars ~~(\$100,000)~~  
18 ~~(\$1,000,000)~~ each person and each accident for bodily injury and ~~fifteen~~  
19 ~~fifty~~ thousand dollars ~~(\$15,000)~~ ~~(\$50,000)~~ for property damage (one  
20 hundred dollars (\$100.00) deductible)."

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

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

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

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

42 The plan of operation shall provide for, among other matters, (i) the establishment of  
43 necessary facilities; (ii) the management of the Facility; (iii) the preliminary assessment

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

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

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

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

1 the member shall pay over the excess to the Facility on a date specified by the Board of  
2 Governors. If the amount collected during the period of surcharge is less than the  
3 assessments paid by the member to the Facility, the Facility shall pay the difference to the  
4 member. Except as ~~hereinafter provided, otherwise provided in this Article,~~ the amount of  
5 recoupment shall not be considered or treated as a rate or premium for any purpose. The  
6 Board of Governors shall adopt and implement a plan for compensation of agents of  
7 Facility members when recoupment surcharges are imposed; ~~such that~~ compensation shall  
8 not exceed the compensation or commission rate normally paid to the agent for the  
9 issuance or renewal of the automobile liability policy issued through the North Carolina  
10 Reinsurance Facility affected by ~~such surcharge; provided, however, that the surcharge.~~  
11 However, the surcharge ~~provided for in this section~~ shall include an amount necessary to  
12 recover the amount of the assessment to member companies and the compensation paid  
13 by each member, ~~pursuant to~~ under this section, to agents."

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

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

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

25 "(l) The classifications, rules, rates, rating plans and policy forms used on motor  
26 vehicle insurance policies reinsured by the Facility may be made by the Facility or by any  
27 licensed or statutory rating organization or bureau on its behalf and shall be filed with the  
28 Commissioner. The Board of Governors shall establish a separate subclassification  
29 within the Facility for 'clean risks' ~~as herein defined, risks'~~. For the purpose of this Article,  
30 a 'clean risk' ~~shall be~~ is any owner of a nonfleet private passenger motor vehicle as defined  
31 in G.S. 58-40-10, if the owner, principal operator, and each licensed operator in the  
32 owner's household have two years' driving experience as licensed drivers and if none of  
33 the persons has been assigned any Safe Driver Incentive Plan points under Article 36 of  
34 this Chapter during the three-year period immediately preceding either (i) the date of  
35 application for a motor vehicle insurance policy or (ii) the date of preparation of a  
36 renewal of a motor vehicle insurance policy. ~~Such The~~ filings may incorporate by  
37 reference any other material on file with the Commissioner. Rates shall be neither  
38 excessive, inadequate nor unfairly discriminatory. If the Commissioner finds, after a  
39 hearing, that a rate is either excessive, inadequate or unfairly discriminatory, ~~he the~~  
40 Commissioner shall issue an order specifying in what respect it is deficient and stating  
41 when, within a reasonable period thereafter, ~~such rate shall be deemed the rate is~~ no longer  
42 effective. ~~Said The~~ order is subject to judicial review as set out in Article 2 of this  
43 Chapter. Pending judicial review of ~~said the~~ order, the filed classification plan and the

1 filed rates may be used, charged and collected in the same manner as set out in G.S. 58-  
2 40-45 of this Chapter. ~~Said~~The order shall not affect any contract or policy made or  
3 issued ~~prior to~~before the expiration of the period set forth in the order. All rates shall be  
4 on an actuarially sound basis and shall be calculated, insofar as is possible, to produce  
5 neither a profit nor a loss. However, the rates made by or on behalf of the Facility with  
6 respect to 'clean risks', ~~as defined above,~~risks' shall not exceed the rates charged 'clean  
7 risks' who are not reinsured in the Facility. The difference between the actual rate  
8 charged and the actuarially sound and self-supporting rates for 'clean risks' reinsured in  
9 the Facility may be recouped in similar manner as assessments ~~pursuant to G.S. 58-37-40(f)~~  
10 ~~or allocated pursuant to G.S. 58-37-75.~~under G.S. 58-37-40(f). Rates shall not include any  
11 factor for underwriting profit on Facility business, but shall provide an allowance for  
12 contingencies. There shall be a strong presumption that the rates and premiums for the  
13 business of the Facility are neither unreasonable nor excessive."

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

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

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

##### 17 **"§ 58-50-60. Rules for precertification practices.**

18 (a) This section applies to all accident and health insurers under Articles 1 through  
19 64 of this Chapter, all third-party administrators and preferred provider arrangements, all  
20 entities subject to Articles 65 through 67 of this Chapter, and all self-funded ~~health benefit~~  
21 workers' compensation insurance plans.

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

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

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

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

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

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

- 1 G.S. 58-7-55. Exceptions to requirements of G.S. 58-7-50.  
2 G.S. 58-7-70. Effects of redomestication.  
3 G.S. 58-15-5. Definitions.  
4 G.S. 58-16-35. Unauthorized Insurers Process Act.  
5 G.S. 58-24-45. Organization.  
6 G.S. 58-24-145. Injunction – Liquidation – Receivership of domestic  
7 society.  
8 G.S. 58-28-5. Transacting business without certificate of authority  
9 prohibited; exceptions.  
10 G.S. 58-28-15. Validity of acts or contracts of unauthorized company  
11 shall not impair obligation of contract as to the company;  
12 maintenance of suits; right to defend.  
13 G.S. 58-28-45. Uniform Unauthorized Insurers Act.  
14 G.S. 58-30-10. Definitions.  
15 G.S. 58-30-55. Condition on release from delinquency proceedings.  
16 G.S. 58-30-260. Conservation of property of foreign or alien insurers  
17 found in this State.  
18 G.S. 58-33-132. Qualifications of instructors.  
19 G.S. 58-41-55. Penalties; restitution.  
20 G.S. 58-48-35. Powers and duties of the Association.  
21 G.S. 58-48-45. Duties and powers of the Commissioner.  
22 G.S. 58-57-80. Penalties.

#### 23 PART X. RISK SHARING PLAN SUNSET EXTENSION.

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

#### 25 "§ 58-42-55. Expiration.

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

#### 27 PART XI. HEALTH INSURANCE CLARIFYING CHANGES.

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

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

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

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

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

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

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

9 "(d) Applicability. – Subsection (b1) of this section applies only to group ~~contracts~~  
10 contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than  
11 50 employees. The remainder of this section applies only to group contracts covering 20  
12 or more employees."

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

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

- 17 (1) Policies issued to eligible individuals under G.S. 58-68-60.  
18 (2) Excepted benefits as described in ~~G.S. 58-68-25(b)~~ G.S. 58-68-25(b)(1)."

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

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

- 23 (1) Health insurance coverage offered by a health insurer if the coverage is  
24 made available in the small group market only through one or more  
25 bona fide associations.  
26 (2) A self-employed individual as defined in ~~G.S. 58-50-110(21a)~~ G.S. 58-  
27 50-110(21a), except as otherwise provided for the basic and standard  
28 health care plans under the North Carolina Small Employer Group  
29 Health Coverage Reform Act."

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

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

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

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

40 Section 63.8. G.S. 58-67-74(a), as enacted by S.L. 1997-225, reads as  
41 rewritten:

42 "(a) Every health care plan written by a health maintenance organization ~~and in~~  
43 ~~force, that is~~ issued, renewed, or amended on or after October 1, 1997, and that is subject



1 to this Article, shall provide coverage for medically appropriate and necessary services,  
2 including diabetes outpatient self-management training and educational services, and  
3 equipment, supplies, medications, and laboratory procedures used to treat diabetes.  
4 Diabetes outpatient self-management training and educational services shall be provided  
5 by a physician or a health care professional designated by the physician. The health  
6 maintenance organization shall determine who shall provide and be reimbursed for the  
7 diabetes outpatient self-management training and educational services. The same  
8 deductibles, coinsurance, and other limitations ~~as that~~ apply to similar services covered  
9 under the ~~policy, contract, or plan~~ shall apply to the diabetes coverage required under this  
10 section."

11 Section 63.9. G.S. 58-67-79(a), as enacted by S.L. 1997-312, reads as  
12 rewritten:

13 "(a) Every health care plan written by a health maintenance organization ~~and in~~  
14 ~~force, that is~~ issued, renewed, or amended on or after January 1, 1998, that is subject to  
15 this ~~Article~~ Article, and that provides coverage for mastectomy shall provide coverage for  
16 reconstructive breast surgery resulting from a mastectomy. The coverage shall include  
17 coverage for all stages and revisions of reconstructive breast surgery performed on a  
18 nondiseased breast to establish symmetry when reconstructive surgery on a diseased  
19 breast is performed. The same deductibles, coinsurance, and other limitations ~~as that~~  
20 apply to similar services covered under the ~~policy, contract, or plan~~ shall apply to coverage  
21 for reconstructive breast surgery. Reconstruction of the nipple/areolar complex following  
22 a mastectomy is covered without regard to the lapse of time between the mastectomy and  
23 the reconstruction, subject to the approval of the treating physician."

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

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

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

#### 31 **PART XIII. BAIL BONDS.**

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

##### 33 **"§ 58-71-82. Dual license holding.**

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

#### 38 **PART XIV. WORKERS' COMPENSATION TPA.**

39 Section 65.1. Article 47 of Chapter 58 of the General Statutes is amended by  
40 adding the following new Part:

##### 41 **"PART 3. THIRD-PARTY ADMINISTRATORS FOR GROUPS.**

##### 42 **"§ 58-47-210. Definitions.**

43 As used in this Part:

- 1           (1) 'Board' means the board of trustees or other governing body of a group.  
2           (2) 'Control' means 'control' as defined in G.S. 58-19-5(2).  
3           (3) 'GAAP financial statement' means a financial statement as defined by  
4           generally accepted accounting principles.  
5           (4) 'Group' means a group of employers that is licensed under Part 1 of this  
6           Article.  
7           (5) 'Hazardous financial condition' means that, based on its present or  
8           reasonably anticipated financial condition, a person is insolvent or,  
9           although not yet financially impaired or insolvent, is unlikely to be able  
10           to meet obligations with respect to known and reasonably anticipated  
11           obligations in the normal course of business.  
12           (6) 'Member' means an employer that participates in a group.  
13           (7) 'Third-party administrator' or 'TPA' means a person engaged by a board  
14           to execute the policies established by the board and to provide day-to-  
15           day management of the group. 'Third-Party Administrator' and 'TPA'  
16           does not mean:  
17           a. An employer acting on behalf of its employees or the employees  
18           of one or more of its affiliates.  
19           b. An insurer that is licensed under this Chapter or that is acting as  
20           an insurer with respect to a policy lawfully issued and delivered  
21           by it and under the laws of a state in which the insurer is licensed  
22           to write insurance.  
23           c. An agent or broker who is licensed by the Commissioner under  
24           Article 33 of this Chapter whose activities are limited exclusively  
25           to the sale of insurance.  
26           d. An adjuster licensed by the Commissioner under Article 33 of  
27           this Chapter whose activities are limited to adjustment of claims.  
28           e. An individual who is an officer, a member, or an employee of a  
29           board.

30 **"§ 58-47-215. TPA authority; license, qualification for approval.**

- 31           (a) No person shall act as, offer to act as, or hold himself or herself out as a TPA  
32 with respect to risks located in this State for a group unless that person is licensed by the  
33 Commissioner under this Part.  
34           (b) An applicant for a license shall file with the Commissioner the information  
35 required by subsection (c) of this section on a form prescribed by the Commissioner at  
36 least 90 days before the proposed licensing date. No application is complete until the  
37 Commissioner has received all required information.  
38           (c) The following information shall be included in the license application:  
39           (1) All organizational documents of the TPA, including articles of  
40 incorporation, articles of association, a partnership agreement, a trade  
41 name certificate, or a trust agreement, any other applicable documents,  
42 and all amendments to these documents;

- 1           (2) The bylaws, rules, regulations, or similar documents regulating the  
2 internal affairs of the TPA;
- 3           (3) The names, addresses, official positions, and professional qualifications  
4 of the individuals who are responsible for the conduct of affairs of the  
5 TPA, including (i) all members of the board of directors, executive  
6 committee, or other governing board or committee, (ii) the principal  
7 officers in the case of a corporation or the partners or members in the  
8 case of a partnership or association, (iii) all shareholders holding  
9 directly or indirectly ten percent (10%) or more of the voting securities  
10 of the TPA, and (iv) any other person who exercises control or influence  
11 over the affairs of the TPA;
- 12           (4) The annual audited GAAP financial statements for the two most recent  
13 years that demonstrate the applicant is solvent and an ongoing concern  
14 and any other information the Commissioner may require in order to  
15 review the current financial condition of the applicant;
- 16           (5) A general description of the business operations, including information  
17 on staffing levels and activities proposed in this State and nationwide.  
18 The description shall provide details setting forth the TPA's capability  
19 for providing a sufficient number of experienced and qualified  
20 personnel in the areas of claims processing, record keeping, and  
21 underwriting;
- 22           (6) The annual report of the manner and amount of all charges, fees, and  
23 direct and indirect compensation received from the group as specified in  
24 the service agreement;
- 25           (7) All written agreements or contracts with groups; and
- 26           (8) Any other pertinent information, including evidence of compliance with  
27 other provisions of this Article, as required by the Commissioner.
- 28           (d) The information required by subsection (c) of this section, including any trade  
29 secrets, shall be kept confidential; provided that the Commissioner may use that  
30 information in any judicial or administrative proceeding instituted against the TPA.
- 31           (e) TPA licenses shall be renewed annually and applications for renewals of  
32 licenses shall include or be accompanied by any changes in the information required by  
33 subsection (c) of this section.
- 34           (f) A TPA shall notify the Commissioner of any material change in its ownership,  
35 control, or other fact or circumstance affecting its qualification for a license in this State,  
36 30 business days before the change. Failure of the Commissioner to disapprove any  
37 material changes within 30 days after the changes have been filed with the Commissioner  
38 constitutes the Commissioner's approval of the filed changes.
- 39           (g) After initial licensing, a TPA shall file with the Commissioner all contracts  
40 with a group 60 days before the effective date of the contract.
- 41 **"§ 58-47-220. TPA license; termination; revocation; restrictions.**

1       (a) The Commissioner may refuse to issue a license if the Commissioner  
2 determines that any of the provisions of this section apply to the TPA, or to any  
3 individual responsible for the conduct of affairs of the TPA.

4       (b) The Commissioner shall suspend or revoke automatically the license of a TPA  
5 and a request for a hearing shall not stay the effect of the revocation, suspension, or  
6 nonrenewal if the Commissioner finds that any of the following apply to the TPA:

7           (1) The TPA is using methods or practices in the conduct of its business  
8 that render its further transaction of business in this State hazardous or  
9 injurious to insured persons or the public;

10          (2) The TPA has failed to pay any judgment rendered against it in this State  
11 within 60 days after the judgment has become final;

12          (3) The TPA has refused to be examined or to produce its accounts, records,  
13 and files for examination, or any of its officers have refused to give  
14 information with respect to its affairs or have refused to perform any  
15 other legal obligation as to that examination, when required by the  
16 Commissioner;

17          (4) The TPA has, without just cause, refused to pay proper claims or  
18 perform services arising under its contract, has caused covered members  
19 to accept less than the amount due them, or has caused covered  
20 members to employ attorneys or bring suit against the TPA to secure  
21 full payment or settlement of the claims;

22          (5) The TPA is an affiliate of or under the same general management,  
23 interlocking directorate, or ownership as another TPA or group that  
24 unlawfully transacts business in this State;

25          (6) The TPA, or any principal or affiliate of the TPA, has been convicted of  
26 or has entered a plea of guilty or nolo contendere to a felony without  
27 regard to whether judgment was withheld;

28          (7) The TPA or an affiliate is under revocation, suspension, or nonrenewal  
29 in another state;

30          (8) The TPA is in hazardous financial condition;

31          (9) The TPA has filed for protection under the United States Bankruptcy  
32 Code or any state receivership law;

33          (10) The financial condition or business practices of the TPA otherwise pose  
34 an imminent threat to the public health, safety, or welfare of the  
35 residents of this State; or

36          (11) The TPA is found to be in violation of Article 63 of this Chapter.

37       (c) The Commissioner may, after notice and opportunity for hearing, suspend or  
38 revoke the license of a TPA if the Commissioner finds that any of the following apply to  
39 the TPA:

40           (1) The TPA has violated a rule or an order of the Commissioner or any  
41 provision of this Chapter or Chapter 97 of the General Statutes; or

1           (2)    The TPA at any time fails to meet any qualification for which issuance  
2           of the license could have been refused had the failure then existed and  
3           been known to the Commissioner at the time of the application.

4           (d)    If the Commissioner determines that a TPA or any other person has not  
5           materially complied with this Article or with any rule adopted or order issued under this  
6           Article, after notice and opportunity to be heard, the Commissioner may order:

7           (1)    For each separate violation, a civil penalty pursuant to G.S. 58-2-70(d);  
8           or

9           (2)    Revocation, suspension, or nonrenewal of the person's license.

10          (e)    If the Commissioner finds that because of a material noncompliance a group  
11          has suffered any loss or damage, the Commissioner may maintain a civil action brought  
12          by or on behalf of the group and its policyholders and creditors for recovery of  
13          compensatory damages for the benefit of the group and its policyholders and creditors or  
14          for other appropriate relief.

15          (f)    Nothing in this Article affects the Commissioner's right to impose any other  
16          penalties provided for in this Chapter. Nothing in this Article limits or restricts the rights  
17          of policyholders, claimants, and creditors.

18          (g)    If an order of rehabilitation or liquidation of the group has been entered under  
19          Article 30 of this Chapter, and the receiver appointed under that order determines that the  
20          TPA or any other person has not materially complied with this section, or any order or  
21          rule adopted thereunder, and the group suffered any loss or damage therefrom, the  
22          receiver may maintain a civil action for recovery of damages or other appropriate  
23          sanctions for the benefit of the group."

#### 24   **PART XV. AGENTS.**

25           Section 65.2. Article 33 of Chapter 58 of the General Statutes is amended by  
26   adding the following new section to read:

#### 27   **"§ 58-33-41. Agent or broker of record; managed care contracts.**

28           Notwithstanding G.S. 58-33-25(g), an insurer or service corporation offering managed  
29           care products and an HMO shall recognize a licensed agent or broker that has been  
30           designated by an employer to inquire about or secure group health coverage for the  
31           employer. If coverage is placed, the agent or broker shall receive the same commission  
32           as brokers or appointed agents for the same coverage."

33           Section 65.3. G.S. 58-33-25(o) reads as rewritten:

34           (o)    No license as an agent, broker, or limited representative is required of the  
35   following:

36           (1)    Any regular salaried officer or employee of an insurance company, of a  
37           licensed agent, of a broker, or of a limited representative, if such  
38           officer's or employee's duties and responsibilities do not include the  
39           negotiation or solicitation of insurance.

40           (2)    Persons who secure and furnish information on behalf of an employer,  
41           where no commission is paid for such service, for the purpose of group  
42           or wholesale life insurance, annuities, or group, blanket or franchise  
43           health insurance; or for enrolling individuals under such plans or issuing

1 certificates thereunder; or otherwise assisting in administering such  
2 plans.

3 (3) Employers or their officers or employees, or the trustees of any  
4 employee trust plan, to the extent that such employers, officers,  
5 employees, or trustees are engaged in the administration or operation of  
6 any program of employee benefits for their own employees or the  
7 employees of their subsidiaries or affiliates involving the use of  
8 insurance issued by a licensed insurance company; provided that such  
9 employers, officers, employees, or trustees are not in any manner  
10 compensated, directly or indirectly, by the insurance company issuing  
11 such insurance.

12 (4) Agency office employees acting within the confines of the agent's  
13 office, under the direction and personal supervision of the duly licensed  
14 agent and within the scope of the agent's license, in the acceptance of  
15 applications, personally underwritten by the agent, payment of  
16 premiums, and the performance of clerical, stenographic, and similar  
17 office duties; provided that the activity does not amount to the  
18 interpretation of insurance policies, provisions or coverage, to sales or  
19 negotiation of insurance policies, to any underwriting function, or to the  
20 signing or verification of applications for insurance.

21 (5) Licensed insurers authorized to write the kinds of insurance described in  
22 G.S. 58-7-15(1) through G.S. 58-7-15(3) that do business without the  
23 involvement of a licensed agent.

24 (6) The Commissioner may adopt rules to carry out the provisions of this  
25 subsection."

#### 26 **PART XVI. EFFECT OF HEADINGS.**

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

#### 30 **PART XVII. EFFECTIVE DATE.**

31 Section 67. Sections 30 through 32.1 of this act become effective September 1,  
32 1997. Section 61 of this act is effective retroactively to June 30, 1997. Sections 62, 63.4,  
33 63.5, and 63.6 of this act are effective retroactively July 1, 1997. Section 63.8 is effective  
34 retroactively to June 26, 1997. Section 63.9 is effective retroactively to July 17, 1997.  
35 Sections 63.1, 63.2, and 63.3 become effective January 1, 1998. Section 65.1 of this act  
36 becomes effective July 1, 1998. The remainder of this act is effective when it becomes  
37 law.