

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

H

4

**HOUSE BILL 339
Committee Substitute Favorable 4/24/03
Committee Substitute #2 Favorable 4/30/03
Senate Commerce Committee Substitute Adopted 6/18/03**

Short Title: Life and Health Insurance Omnibus.-AB

(Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

1
2 AN ACT TO CONFORM NORTH CAROLINA'S THIRD PARTY
3 ADMINISTRATOR ARTICLE TO REVISIONS TO THE NAIC MODEL THIRD
4 PARTY ADMINISTRATOR STATUTE; REQUIRE GROUP ANNUITY
5 INSURERS TO ISSUE INDIVIDUAL CERTIFICATES OF COVERAGE TO
6 EACH ANNUITANT; REORGANIZE ARTICLE 60 OF CHAPTER 58 OF THE
7 GENERAL STATUTES AND AMEND CURRENT DISCLOSURE
8 REQUIREMENTS FOR SOLICITATION OF LIFE INSURANCE PRODUCTS
9 AND ANNUITIES; REQUIRE INSURERS TO NOTIFY EMPLOYEES OF THE
10 EXISTENCE OF EMPLOYER-OWNED LIFE INSURANCE POLICIES WITHIN
11 THIRTY DAYS AFTER THE EFFECTIVE DATE OF COVERAGE; REQUIRE
12 THAT ASSOCIATION PREMIUM RATES FOR ACCIDENT AND HEALTH
13 INSURANCE BE ACTUARIALLY SOUND AND THAT ASSOCIATIONS BE
14 RATED AS A SINGLE GROUP WHEN THE COVERAGE PROVIDED IS NOT
15 EMPLOYER-BASED; LIMIT AN INDIVIDUAL ACCIDENT AND HEALTH
16 INSURER'S USE OF AN INDIVIDUAL'S OWN CLAIMS' EXPERIENCE TO
17 DEVELOP THE INDIVIDUAL'S RENEWAL RATE; EXEMPT A SOLE
18 PROPRIETOR FROM THE FULL-TIME BASIS OR THIRTY-HOUR
19 WORKWEEK REQUIREMENTS TO BE ELIGIBLE FOR LARGE GROUP
20 HEALTH COVERAGE LIKE THE PROPRIETOR'S FULL-TIME EMPLOYEES;
21 CORRECT AN INADVERTENT CROSS-REFERENCE IN ORDER TO
22 REAPPLY NEWBORN COVERAGE TO A MORE COMPREHENSIVE GROUP
23 OF INSURERS; TECHNICALLY CORRECT AN OMISSION REGARDING
24 PROVISIONS GOVERNING PREEXISTING CONDITIONS FOR LIMITED
25 HEALTH, SUPPLEMENTAL HEALTH, AND SPECIFIED DISEASE POLICIES;
26 DECREASE THE TOTAL NUMBER OF MEMBERS THAT SERVE ON THE
27 SMALL EMPLOYER REINSURANCE POOL BOARD FROM NINE TO SIX;

1 ALLOW PERSONS RETROACTIVELY ENROLLED IN MEDICARE PART B
2 THE SAME SIX-MONTH OPEN ENROLLMENT PERIOD FOR MEDICARE
3 SUPPLEMENT PLANS AS PERSONS WHO ENROLLED IN MEDICARE PART
4 B WITHOUT A RETROACTIVE EFFECTIVE DATE OF COVERAGE;
5 TECHNICALLY CORRECT THE REVOCATION AND SUSPENSION LAW TO
6 INCLUDE A BENEFICIARY OF A LIFE OR ANNUITY CONTRACT AS A
7 CLAIMANT; MANDATE HEALTH BENEFIT COVERAGE FOR DESIGNATED
8 TRAVEL EXPENSES WHEN THE REQUIRED DISTANCE TRAVELED
9 THRESHOLD IS MET; AND MAKE TECHNICAL CORRECTIONS TO THE
10 CREDIT INSURANCE LAWS.

11 The General Assembly of North Carolina enacts:

12 **PART I. THIRD PARTY ADMINISTRATOR ACT REWRITE**

13 **SECTION 1.** G.S. 58-56-2 is repealed.

14 **SECTION 1.1.** Article 56 of Chapter 58 of the General Statutes is amended
15 by adding a new section to read:

16 **"§ 58-56-3. Definitions.**

17 As used in this Article:

18 (1) "Administrator", "third party administrator", and "TPA" mean a person
19 who directly or indirectly underwrites, collects, or charges premiums
20 from, or adjusts or settles claims on, residents of this State in
21 connection with life, annuity, or health coverage offered or provided
22 by an insurer, except any of the following:

23 a. An employer, or a wholly owned direct or indirect subsidiary of
24 an employer, on behalf of its employees or the employees of
25 one or more subsidiaries or affiliated corporations of the
26 employer.

27 b. A union on behalf of its members.

28 c. An insurer that is authorized to transact insurance in this State
29 pursuant to Articles 1 through 67 of this Chapter.

30 d. An insurance producer licensed to sell life, annuity, or health
31 coverage in this State, whose activities are limited exclusively
32 to the sale of insurance.

33 e. A creditor on behalf of its debtors with respect to insurance
34 covering a debt between the creditor and its debtors.

35 f. A trust and its trustees, agents, and employees acting pursuant
36 to a trust established in conformity with 29 U.S.C. § 186.

37 g. A trust exempt from taxation under section 501(a) of the
38 Internal Revenue Code, its trustees and employees acting
39 pursuant to the trust, or a custodian and the custodian's agents
40 or employees acting pursuant to a custodian account which
41 meets the requirements of section 401(f) of the Internal
42 Revenue Code.

43 h. A credit union or a financial institution that is subject to
44 supervision or examination by federal or State banking

- 1 authorities, or a mortgage lender, to the extent it collects and
2 remits premiums to licensed insurance producers or to limited
3 lines producers or authorized insurers in connection with loan
4 payments.
- 5 i. A credit card issuing company that advances for and collects
6 insurance premiums or charges from its credit card holders who
7 have authorized collection.
- 8 j. A person who adjusts or settles claims in the normal course of
9 that person's practice or employment as a licensed attorney and
10 who does not collect charges or premiums in connection with
11 life, annuity, or health coverage.
- 12 k. An adjuster licensed by this State whose activities are limited to
13 adjustment of claims.
- 14 l. A person licensed as a managing general agent in this State,
15 whose activities are limited exclusively to the scope of activities
16 conveyed under the license.
- 17 m. An administrator who is affiliated with an insurer and who only
18 performs the contractual duties (between the administrator and
19 the insurer) of an administrator for the direct and assumed
20 insurance business of the affiliated insurer. The insurer is
21 responsible for the acts of the administrator and is responsible
22 for providing all of the administrator's books and records to the
23 Commissioner, upon a request from the Commissioner.
- 24 (2) "Affiliate or affiliated" means an entity or person who directly or
25 indirectly, through one or more intermediaries, controls or is controlled
26 by, or is under common control with, a specified entity or person.
- 27 (3) "Commissioner" means the Commissioner of Insurance of this State.
- 28 (4) "Control" means the term as defined in G.S. 58-19-5(2).
- 29 (5) "GAAP" means United States generally accepted accounting principles
30 consistently applied.
- 31 (6) "Home state" means the District of Columbia and any state or territory
32 of the United States in which an administrator is incorporated or
33 maintains its principal place of business. If neither the state in which
34 the administrator is incorporated nor the state in which it maintains its
35 principal place of business has adopted the NAIC Third Party
36 Administrator Statute, or a substantially similar law governing
37 administrators, the administrator may declare another state in which it
38 conducts business to be its "home state".
- 39 (7) "Insurance producer" means a person who sells, solicits, or negotiates
40 a contract of insurance as those terms are defined in this Article.
- 41 (8) "Insurer" means an insurance company subject to this Chapter, a
42 service corporation organized under Article 65 of this Chapter, a health
43 maintenance organization organized under Article 67 of this Chapter,

1 and a multiple employer welfare arrangement subject to Article 49 of
2 this Chapter.

3 (9) "Negotiate" means the act of conferring directly with, or offering
4 advice directly to, a purchaser or prospective purchaser of a particular
5 contract of insurance concerning any of the substantive benefits, terms,
6 or conditions of the contract, provided that the person engaged in that
7 act either sells insurance or obtains insurance from insurers for
8 purchasers.

9 (10) "Nonresident administrator" means a person who is applying for
10 licensure or is licensed in any state other than the administrator's home
11 state.

12 (11) "Person" means an individual or a business entity.

13 (12) "Sell" means to exchange a contract of insurance by any means, for
14 money or its equivalent, on behalf of an insurance company.

15 (13) "Solicit" means attempting to sell insurance or asking or urging a
16 person to apply for a particular kind of insurance from a particular
17 company.

18 (14) "Underwrites" or "underwriting" includes the acceptance of employer
19 or individual applications for coverage of individuals in accordance
20 with the written rules of the insurer or self-funded plan and also
21 includes the overall planning and coordinating of a benefits program.

22 (15) "Uniform Application" means the current version of the NAIC
23 Uniform Application for Third Party Administrators."

24 **SECTION 1.2.** G.S. 58-56-6 reads as rewritten:

25 "**§ 58-56-6. Written agreement necessary.**

26 (a) No TPA may act as a TPA without a written agreement between the TPA and
27 the insurer. The written agreement shall be retained as part of the official records of
28 both the insurer and the TPA for the duration of the agreement and for five years
29 thereafter. The agreement shall contain all provisions required by this Article, ~~to the~~
30 ~~extent those requirements apply to the functions performed by the TPA.~~ except insofar
31 as those requirements do not apply to the functions performed by the TPA.

32 (b) The agreement shall include a statement of duties that the TPA is expected to
33 perform on behalf of the insurer and the ~~kinds of insurance the TPA is to be authorized~~
34 ~~to administer.~~ lines, classes, or types of insurance for which the TPA is to be authorized
35 to administer. The agreement shall provide for underwriting or other standards
36 pertaining to the business underwritten by the insurer.

37 (c) The insurer or TPA may, with written notice, terminate the written agreement
38 for cause as provided in the agreement. The insurer may suspend the underwriting
39 authority of the TPA during the pendency of any dispute regarding the cause for
40 termination of the agreement. The insurer ~~must~~ shall fulfill any lawful obligations with
41 respect to policies affected by the agreement, regardless of any dispute between the
42 insurer and the TPA."

43 **SECTION 1.3.** G.S. 58-56-16 reads as rewritten:

44 "**§ 58-56-16. Records to be kept.**

1 (a) Every TPA shall maintain and make available to the insurer complete books
2 and records of all transactions performed on behalf of the insurer. The books and
3 records shall be maintained in accordance with prudent standards of insurance record
4 keeping and must be maintained for a period of at least five years after the date of their
5 creation.

6 ~~(b) The Commissioner shall have access to books and records maintained by a~~
7 ~~TPA for the purposes of examination, audit, and inspection. The Commissioner shall~~
8 ~~keep confidential any trade secrets contained in those books and records, including the~~
9 ~~identity and addresses of policyholders and certificate holders, except that the~~
10 ~~Commissioner may use the information in any judicial or administrative proceeding~~
11 ~~instituted against the TPA.~~

12 (c) The insurer shall own the records generated by the TPA pertaining to the
13 insurer, but the TPA shall retain the right to continuing access to books and records to
14 permit the TPA to fulfill all of its contractual obligations to insured parties, claimants,
15 and the insurer.

16 (d) In the event the insurer and the TPA cancel their agreement, notwithstanding
17 the provisions of subsection (a) of this section, the TPA may, by written agreement with
18 the insurer, transfer all records to a new TPA rather than retain them for five years. In
19 this case, the new TPA shall acknowledge, in writing, that it is responsible for retaining
20 the records of the prior TPA as required in subsection (a) of this section.

21 (e) The Commissioner shall have access to books and records maintained by a
22 TPA for the purposes of examination, audit, and inspection. Any documents, materials,
23 or other information in the possession or control of the Commissioner that are furnished
24 by a TPA, insurer, insurance producer, or an employee or agent thereof acting on behalf
25 of the TPA, insurer, or insurance producer, or obtained by the Commissioner in an
26 investigation shall be confidential by law and privileged, shall not constitute a public
27 record as defined by G.S. 132-1, shall not be subject to subpoena, shall not be subject to
28 discovery, and shall not be admissible in evidence in any private civil action. However,
29 the Commissioner is authorized to use such documents, materials, or other information
30 in the furtherance of any regulatory or legal action brought as a part of the
31 Commissioner's official duties.

32 (f) Neither the Commissioner nor any person who receives documents, materials,
33 or other information while acting under the authority of the Commissioner shall be
34 permitted or required to testify in any private civil action concerning any confidential
35 documents, materials, or information subject to subsection (e) of this section.

36 (g) In order to assist in the performance of the Commissioner's duties, the
37 Commissioner:

38 (1) May share documents, materials, or other information, including the
39 confidential and privileged documents, materials, or information
40 subject to subsection (e) of this section, with other State, federal, and
41 international regulatory agencies, with the National Association of
42 Insurance Commissioners, its affiliates, or its subsidiaries, and with
43 State, federal, and international law enforcement authorities, provided

1 that the recipient agrees to maintain the confidentiality and privileged
2 status of the document, material, or other information;

3 (2) May receive documents, materials, or information, including otherwise
4 confidential and privileged documents, materials, or information, from
5 the National Association of Insurance Commissioners, its affiliates, or
6 its subsidiaries, and from regulatory and law enforcement officials of
7 other foreign or domestic jurisdictions and shall maintain as
8 confidential or privileged any document, material, or information
9 received with notice or the understanding that it is confidential or
10 privileged under the laws of the jurisdiction that is the source of the
11 document, material, or information; and

12 (3) May enter into agreements governing sharing and use of information
13 consistent with this subsection.

14 (h) No waiver of any applicable privilege or claim of confidentiality in the
15 documents, materials, or information shall occur as a result of disclosure to the
16 Commissioner under this section or as a result of sharing as authorized in subsection (g)
17 of this section.

18 (i) Nothing in this Article shall prohibit the Commissioner from releasing final,
19 adjudicated actions including for-cause terminations that are open to public inspection
20 pursuant to Chapter 132 of the General Statutes or to a database or other clearinghouse
21 service maintained by the National Association of Insurance Commissioners, its
22 affiliates, or its subsidiaries."

23 **SECTION 1.4.** G.S. 58-56-51 is repealed.

24 **SECTION 1.5.** Article 56 of Chapter 58 of the General Statutes is amended
25 by adding a new section to read:

26 **"§ 58-56-52. Home state certificate of authority or license.**

27 (a) A person shall apply to be a TPA in its home state upon the Uniform
28 Application and shall receive a certificate of authority or license from the Commissioner
29 of its home state prior to performing any function of a TPA in this State. Each
30 application shall be accompanied by a nonrefundable filing fee of one hundred dollars
31 (\$100.00).

32 (b) The Uniform Application shall include or be accompanied by the following
33 information and documents:

34 (1) All basic organizational documents of the applicant, including any
35 articles of incorporation, articles of association, partnership agreement,
36 trade name certificate, trust agreement, shareholder agreement, and
37 other applicable documents and all amendments to those documents.

38 (2) The bylaws, rules, regulations, or similar documents regulating the
39 internal affairs of the applicant.

40 (3) NAIC Biographical Affidavit for the individuals who are responsible
41 for the conduct of affairs of the applicant, including all members of the
42 board of directors, board of trustees, executive committee, or other
43 governing board or committee; the principal officers in the case of a
44 corporation or the partners or members in the case of a partnership,

1 association, or limited liability company; any shareholders or member
2 holding directly or indirectly ten percent (10%) or more of the voting
3 stock, voting securities, or voting interest of the applicant; and any
4 other person who exercises control or influence over the affairs of the
5 applicant.

6 (4) Audited annual financial statements or reports for the two most recent
7 fiscal years that prove that the applicant has a positive net worth. If the
8 applicant has been in existence for less than two fiscal years, the
9 Uniform Application shall include financial statements or reports,
10 certified by an officer of the applicant and prepared in accordance with
11 GAAP, for any completed fiscal years and for any month during the
12 current fiscal year for which the financial statements or reports have
13 been completed. The applicant shall also include any other information
14 the Commissioner requires in order to review the current financial
15 condition of the applicant. An audited financial/annual report prepared
16 on a consolidated basis shall include a columnar consolidating or
17 combining worksheet that shall be filed with the report and include all
18 of the following:

19 a. Amounts shown on the consolidated audited financial report
20 shall be shown on the worksheet.

21 b. Amounts for each entity shall be stated separately.

22 c. Explanations of consolidating and eliminating entries.

23 (5) A statement describing the business plan including information on
24 staffing levels and activities proposed in this State and nationwide. The
25 plan shall provide details setting forth the applicant's capability for
26 providing a sufficient number of experienced and qualified personnel
27 in the areas of claims processing, record keeping, and underwriting.

28 (6) Any other pertinent information required by the Commissioner.

29 (c) A TPA licensed or applying for licensure under this section shall make
30 available for inspection by the Commissioner copies of all contracts with insurers or
31 other persons utilizing the services of the TPA.

32 (d) A TPA licensed or applying for licensure under this section shall produce its
33 accounts, records, and files for examination, and make its officers available to give
34 information with respect to its affairs, as often as reasonably required by the
35 Commissioner.

36 (e) The Commissioner may refuse to issue a certificate of authority or license if
37 the Commissioner determines that the TPA, or any individual responsible for the
38 conduct of affairs of the TPA, is not competent, trustworthy, financially responsible, or
39 of good personal and business reputation, has had an insurance or an administrator
40 certificate of authority or license denied or revoked for cause by any jurisdiction, or if
41 the Commissioner determines that any of the grounds set forth in G.S. 58-56-72 exists
42 with respect to the TPA.

1 (f) A certificate of authority or license issued under this section shall remain
2 valid, unless surrendered, suspended, or revoked by the Commissioner, for so long as
3 the TPA continues in business in this State and remains in compliance with this Article.

4 (g) A TPA licensed or applying for licensure under this section shall immediately
5 notify the Commissioner of any material change in its ownership, control, or other fact
6 or circumstance affecting its qualification for a certificate of authority or license in this
7 State. The Commissioner shall report any such changes to the producer database
8 maintained by the NAIC or affiliates or subsidiaries of the NAIC."

9 **SECTION 1.6.** G.S. 58-56-56 is repealed.

10 **SECTION 1.7.** Article 56 of Chapter 58 of the General Statutes is amended
11 by adding a new section to read:

12 **"§ 58-56-57. Registration requirement.**

13 A person who directly or indirectly underwrites, collects charges or premiums from,
14 or adjusts or settles claims on residents of this State in connection with life, annuity, or
15 health coverage provided by a self-funded plan shall register with the Commissioner
16 annually, verifying its status as herein described in a format prescribed by the
17 Commissioner."

18 **SECTION 1.8.** Article 56 of Chapter 58 of the General Statutes is amended
19 by adding a new section to read:

20 **"§ 58-56-62. Annual report and filing.**

21 (a) Each TPA licensed under G.S. 58-56-52 shall file an annual report for the
22 preceding calendar year with the Commissioner on or before July 1 of each year or
23 within such extension of time as the Commissioner for good cause may grant. The
24 annual report shall include an audited financial statement performed by an independent
25 certified public accountant. An audited financial/annual report prepared on a
26 consolidated basis shall include a columnar consolidating or combining worksheet that
27 shall be filed with the report and include the information required under G.S.
28 58-56-52(b)(4)a. through c. The report shall be in the form and contain such matters as
29 the Commissioner prescribes and shall be verified by at least two officers of the TPA.

30 (b) The annual report shall include the complete names and addresses of all
31 insurers with which the administrator had agreements during the preceding fiscal year.

32 (c) At the time of filing its annual report, the administrator shall pay a
33 nonrefundable filing fee of one hundred dollars (\$100.00).

34 (d) The Commissioner shall review the most recently filed annual report of each
35 administrator on or before September 1 of each year. Upon completion of its review, the
36 Commissioner shall either:

37 (1) Issue a certification to the administrator that the annual report shows
38 that the administrator has a positive net worth as evidenced by audited
39 financial statements and is currently licensed and in good standing, or
40 noting any deficiencies found in the annual report and financial
41 statements; or

42 (2) Update any electronic database maintained by the National
43 Association of Insurance Commissioners, or its affiliates or
44 subsidiaries, indicating that the annual report shows that the

1 administrator has a positive net worth as evidenced by audited
2 financial statements and is in compliance with existing law, or noting
3 any deficiencies found in the annual report."

4 **SECTION 1.9.** G.S. 58-56-66 is repealed.

5 **SECTION 1.10.** Article 56 of Chapter 58 of the General Statutes is amended
6 by adding a new section to read:

7 "**§ 58-56-67. Nonresident administrator certificate of authority.**

8 (a) Unless a TPA has obtained a home state certificate of authority or license in
9 this State under G.S. 58-56-52, any TPA who performs administrator duties in this State
10 shall obtain a nonresident administrator certificate of authority or license in accordance
11 with this section by filing with the Commissioner the Uniform Application
12 accompanied by a letter of certification from the home state of the TPA. In lieu of
13 requiring a TPA to file a letter of certification with the Uniform Application, the
14 Commissioner may verify the nonresident administrator's home state certificate of
15 authority or license status through an electronic database maintained by the National
16 Association of Insurance Commissioners or its affiliates or subsidiaries.

17 (b) A TPA shall not be eligible for a nonresident administrator certificate of
18 authority or license under this section if it does not hold a certificate of authority as a
19 resident in a home state that has adopted the NAIC Third Party Administrator Statute or
20 a substantially similar law governing TPAs.

21 (c) Except as provided in subsections (b) and (h) of this section, the
22 Commissioner shall issue to the TPA a nonresident administrator certificate of authority
23 or license promptly upon receipt of a complete application.

24 (d) Unless notified by the Commissioner that the Commissioner is able to verify
25 the nonresident TPA's home state certificate of authority or license status through an
26 electronic database maintained by the National Association of Insurance
27 Commissioners, or its affiliates or subsidiaries, each nonresident TPA annually shall file
28 a statement that its home state administrator certificate of authority or license remains in
29 force and has not been revoked or suspended by its home state during the preceding
30 year. The statement required by this subsection shall be filed by November 1 each year.

31 (e) At the time of filing the statement required under subsection (d) of this
32 section or if the Commissioner has notified the nonresident administrator that the
33 Commissioner is able to verify the nonresident administrator's home state certificate of
34 authority or license status through an electronic database, the nonresident TPA shall
35 pay, no later than November 1, a nonrefundable filing fee of one hundred dollars
36 (\$100.00).

37 (f) A TPA licensed or applying for licensure under this section shall produce its
38 accounts, records, and files for examination, and make its officers available to give
39 information with respect to its affairs, as often as reasonably required by the
40 Commissioner.

41 (g) A nonresident TPA is not required to hold a nonresident administrator
42 certificate of authority or license in this State if the TPA's duties in this State are limited
43 to the administration of a group policy or plan of insurance and no more than a total of
44 100 persons insured for all plans reside in this State.

1 (h) The Commissioner may refuse to issue a nonresident administrator certificate
2 of authority or license, or delay the issuance of a nonresident administrator certificate of
3 authority or license, if the Commissioner determines that, due to events or information
4 obtained subsequent to the home state's licensure of the TPA, the nonresident TPA
5 cannot satisfy the requirements of this Article or that grounds exist for the home state's
6 revocation or suspension of the administrator's home state certificate of authority or
7 license. If the Commissioner refuses to issue a certificate of authority of license
8 pursuant to this section, the Commissioner shall give written notice of its determination
9 to the Commissioner of the home state, and the Commissioner may delay the issuance
10 of a nonresident administrator certificate of authority to the nonresident TPA until the
11 Commissioner determines that the administrator can satisfy the requirements of this
12 Article and that no grounds exist for the home state's revocation or suspension of the
13 administrator's home state certificate of authority or license."

14 **SECTION 1.11.** Article 56 of Chapter 58 of the General Statutes is amended
15 by adding a new section to read:

16 **"§ 58-56-72. Grounds for denial, suspension, or revocation of certificate of**
17 **authority.**

18 (a) The certificate of authority or license of a TPA shall be denied, suspended, or
19 revoked if the Commissioner finds that the TPA:

20 (1) Is in an unsound financial condition;

21 (2) Is using such methods or practices in the conduct of its business so as
22 to render its further transaction of business in this State hazardous or
23 injurious to insured persons or the public; or

24 (3) Has failed to pay any judgment rendered against it in this State within
25 60 days after the judgment has become final.

26 (b) The Commissioner may, after notice and opportunity for hearing, deny,
27 suspend, or revoke the certificate of authority or license of a TPA if the Commissioner
28 finds that the TPA:

29 (1) Has violated any lawful rule or order of the Commissioner or any
30 provision of the insurance laws of this State;

31 (2) Has refused to be examined or to produce its accounts, records, and
32 files for examination, or if any individual responsible for the conduct
33 of affairs of the TPA has refused to give information with respect to its
34 affairs or has refused to perform any other legal obligation as to an
35 examination when required by the Commissioner, including:

36 a. Members of the board of directors, board of trustees, executive
37 committee, or other governing board or committee;

38 b. The principal officers in the case of a corporation or the
39 partners or members in the case of a partnership, association, or
40 limited liability company;

41 c. Any shareholder or member holding directly or indirectly ten
42 percent (10%) or more of the voting stock, voting securities, or
43 voting interest of the TPA; and

- 1 d. Any other person who exercises control or influence over the
2 affairs of the TPA;
- 3 (3) Has, without just cause, refused to pay proper claims or perform
4 services arising under its contracts or has, without just cause, caused
5 covered individuals to accept less than the amount due them or caused
6 covered individuals to employ attorneys or bring suit against the TPA
7 to secure full payment or settlement of such claims;
- 8 (4) Fails, at any time, to meet any qualification for which issuance of the
9 certificate could have been refused had the failure then existed and
10 been known to the Commissioner;
- 11 (5) Or any of the individuals responsible for the conduct of its affairs has
12 been convicted of, or has entered a plea of guilty or nolo contendere to,
13 a felony without regard to whether adjudication was withheld,
14 including:
- 15 a. Members of the board of directors, board of trustees, executive
16 committee or other governing board or committee;
- 17 b. The principal officers in the case of a corporation or the
18 partners or members in the case of a partnership, association, or
19 limited liability company;
- 20 c. Any shareholder or member holding directly or indirectly ten
21 percent or more of its voting stock, voting securities, or voting
22 interest; and
- 23 d. Any other person who exercises control or influence over its
24 affairs;
- 25 (6) Is under suspension or revocation in another state; or
- 26 (7) Has failed to timely file its annual report pursuant to G.S. 58-56-62 if a
27 resident administrator or its statement and filing fee, as applicable,
28 pursuant to G.S. 58-56-67(d) and (e) if a nonresident administrator.
- 29 (c) The Commissioner may, without advance notice or hearing, immediately
30 suspend the certificate of authority or license of a TPA if the Commissioner finds that
31 one or more of the following circumstances exist:
- 32 (1) The TPA is insolvent or impaired.
- 33 (2) A proceeding for receivership, conservatorship, rehabilitation, or other
34 delinquency proceeding regarding the TPA has been commenced in
35 any state.
- 36 (3) The financial condition or business practices of the TPA otherwise
37 pose an imminent threat to the public health, safety, or welfare of the
38 residents of this State.
- 39 (d) If the Commissioner finds that one or more grounds exist for the suspension
40 or revocation of a certificate of authority issued under this part, the Commissioner may,
41 in lieu of suspension or revocation, impose a fine upon the TPA."

42 **SECTION 1.12.** Article 56 of Chapter 58 of the General Statutes is amended
43 by adding a new section to read:

44 **"§ 58-56-73. Prohibited practices.**

1 No person shall act as, offer to act as, or hold himself or herself out as a TPA in this
2 State without a valid domestic or nonresident administrator certificate of authority
3 issued by the Commissioner."
4

5 **PART II. GROUP ANNUITY CONTRACTS**

6 **SECTION 2.** G.S. 58-58-145 reads as rewritten:

7 "**§ 58-58-145. Group annuity contracts defined; ~~requirements~~requirements;**
8 **issuance of individual certificates.**

9 (a) Any policy or contract, except a joint, reversionary or survivorship annuity
10 contract, whereby annuities are payable to more than one person, is a group annuity
11 contract. The person, firm or corporation to whom or to which such contract is issued,
12 as herein provided, is the holder of the contract. The term "annuitant" means any person
13 to whom or which payments are made under the group annuity contract. No authorized
14 insurer shall deliver or issue for delivery in this State any group annuity contract except
15 upon a group of annuitants that conforms to the following: under a contract issued to an
16 employer, or to the trustee of a fund established by an employer or two or more
17 employers in the same industry or kind of business, the stipulated payments on which
18 shall be paid by the holder of such contract either wholly from the employer's funds or
19 funds contributed by him, or partly from such funds and partly from funds contributed
20 by the employees covered by such contract, and providing a plan of retirement annuities
21 under a plan which permits all of the employees of such employer or of any specified
22 class or classes thereof to become annuitants. Any such group of employees may
23 include retired employees, and may include officers and managers as employees, and
24 may include the employees of subsidiary or affiliated corporations of a corporation
25 employer, and may include the individual proprietors, partners and employees of
26 affiliated individuals and firms controlled by the holders through stock ownership,
27 contract or otherwise.

28 (b) The insurer of a group annuity contract shall issue to the policyholder, within
29 30 days of the effective date of the group annuity contract, an individual certificate for
30 delivery to each annuitant which:

31 (1) Identifies the annuity to which the annuitant is entitled.

32 (2) States the name of the person to whom the annuity is payable.

33 (3) Discloses all of the rights and obligations of the insurer, the
34 policyholder, the annuitant, and the persons to whom the annuity is
35 payable with respect to the group annuity contract.

36 G.S. 58-3-150 applies to the form of the individual certificate required by this
37 subsection.

38 (c) Each group annuity contract shall include a provision that the insurer will
39 issue to the policyholder within 30 days of the effective date of the contract, for delivery
40 to each annuitant, an individual certificate setting forth the information described in
41 subsection (b) of this section."
42

43 **PART III. DISCLOSURES FOR ANNUITIES AND LIFE INSURANCE**

1 SECTION 3. The title of Article 60 of Chapter 58 of the General Statutes
2 reads as rewritten:

3 "Article 60.

4 ~~Regulation of Life Insurance Solicitation.~~

5 Standards of Disclosure for Annuities and Life Insurance."

6 SECTION 3.1. Article 60 of Chapter 58 of the General Statutes is amended
7 by designating G.S. 58-60-1 through G.S. 58-60-35 as:

8 "Part 1. Regulation of Life Insurance Solicitation."

9 SECTION 3.2. G.S. 58-60-1 reads as rewritten:

10 "~~§ 58-60-1. Purpose of Article.~~Short title; purpose.

11 (a) This Part may be cited as the "Life Insurance Disclosure Act".

12 (b) The purpose of this ~~Article-Part~~ is to require insurers to deliver to purchasers
13 of life insurance, information which will improve the buyer's ability to select the most
14 appropriate plan of life insurance for ~~their~~ the buyer's needs, improve the buyer's
15 understanding of the basic features of the policy which has been purchased or which is
16 under consideration and to improve the ability of the buyer to evaluate the relative costs
17 of similar plans of life insurance.

18 This ~~Article-Part~~ does not prohibit an insurer ~~to use~~ from using additional material
19 ~~which that~~ is not in violation of Articles 1 through 64 of this Chapter nor any other
20 statute or regulation."

21 SECTION 3.3. G.S. 58-60-5 reads as rewritten:

22 "~~§ 58-60-5. Scope of Article;~~Scope; exemptions.

23 (a) Except as otherwise provided in this ~~Article-Part~~, this ~~Article-Part~~ applies to
24 any solicitation, negotiation or procurement of life insurance occurring within this State.
25 This ~~Article-Part~~ applies to any issuer of a life insurance contract, including fraternal
26 benefit societies.

27 (b) Unless otherwise specifically included, this ~~Article-Part~~ does not apply to:

28 (1) ~~Annuities,~~Individual group annuity contracts.

29 (2) Credit life ~~insurance,~~insurance.

30 (3) Group life ~~insurance,~~insurance (except for disclosures relating to
31 preneed funeral contracts or prearrangements; these disclosure
32 requirements shall extend to the issuance or delivery of certificates as
33 well as to the master policy).

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

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

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

42 SECTION 3.4. G.S. 58-60-10(7)k. reads as rewritten:

43 "k. The date on which the Policy Summary is prepared.

1 The Policy Summary must consist of a separate document.
2 All information required to be disclosed must be set out in such
3 a manner as to not minimize or render any portion thereof
4 obscure. Any amounts which remain level for two or more
5 years of the policy may be represented by a single number if it
6 is clearly indicated what amounts are applicable for each policy
7 year. Amounts in subparagraph e of this paragraph shall be
8 listed in total, not on a per thousand nor per unit basis. If more
9 than one insured is covered under one policy or rider,
10 guaranteed death benefits shall be displayed separately for each
11 insured or for each class of insureds if death benefits do not
12 differ within the class. Zero amounts shall be displayed as zero
13 and shall not be displayed as a blank space. If the insurer makes
14 a material revision in the terms and conditions under which it
15 will limit its right to change any nonguaranteed factor, it shall,
16 no later than the first policy anniversary following the revision,
17 advise each affected policy owner residing in this State."

18 **SECTION 3.5.** Article 60 of Chapter 58 of the General Statutes is amended
19 by adding a new Part to read:

20 "Part 3. Regulation of Home Service Life Insurance Solicitation.

21 "§ 58-60-40. Title and reference.

22 This Part may be cited as the "Home Service Disclosure Act".

23 "§ 58-60-45. Purpose.

24 The purpose of this Part is to establish standards that ensure that meaningful
25 information is provided to the purchasers of insurance policies distributed through the
26 home service distribution system.

27 "§ 58-60-50. Definitions.

28 As used in this Part:

29 (1) "Home service distribution system" means a system in which
30 insurance products are marketed, sold, or serviced by agents in person
31 in the home or business of the insured, owner, or premium payor in
32 assigned territories and may be identified as "debits". The policies are
33 issued on a monthly or more frequent premium payment basis and
34 agents are charged with the responsibilities of servicing the debit,
35 which may include the collection of premium payments in the home or
36 designated location on a monthly or more frequent basis, along with
37 other services normally rendered.

38 (2) "Small face amount life insurance policy" means an insurance policy
39 or certificate with a face amount of fifteen thousand dollars (\$15,000)
40 or less.

41 "§ 58-60-55. General disclosure requirements.

42 (a) In accordance with the disclosure simplification standards set forth in G.S.
43 58-60-80 and at the time an insurance policy is issued through the home service
44 distribution system, the insurer shall disclose:

1 (1) Whether the policyholder is allowed to change the method of premium
2 payment and any conditions for that change;

3 (2) Whether or not at a subsequent date a policyholder may combine
4 multiple policies from the same insurance company, its affiliates, and
5 its subsidiaries into one policy in order to provide like or enhanced
6 coverage at a comparable or reduced premium to eliminate duplicate
7 administrative costs associated with each policy and, if the option is
8 available:

9 a. Whether a policyholder will be subject to underwriting when
10 combining multiple policies into one policy; and

11 b. Whether a policyholder will be subject to a new contestable
12 period, waiting periods, etc., when combining multiple policies
13 into one policy.

14 (b) In accordance with the disclosure simplification standards set forth in G.S.
15 58-60-80, an insurer issuing a small face amount life insurance policy through the home
16 service distribution system shall provide the current disclosure included in Appendix A
17 of the NAIC's Home Service Disclosure Model if at any point in time over the term of
18 the policy the cumulative premiums paid may exceed the face amount of the policy at
19 that point in time. The required disclosure shall be provided to the policy owner or
20 certificate holder no later than at the time the policy or certificate is delivered. The
21 disclosure shall not be attached to the policy but may be delivered with the policy.

22 If, for a particular policy form, the cumulative premiums may exceed the face for
23 some demographic or benefit combination but not for all combinations, the insurer may
24 choose to either:

25 (1) Provide the disclosure only in those circumstances where the
26 premiums may exceed the face amount; or

27 (2) Provide the disclosure for all demographic and benefit combinations.

28 Cumulative premiums shall include premiums paid for riders. However, the face
29 amount shall not include the benefit attributable to the riders.

30 If an illustration has been provided that satisfies the requirements of Title 11,
31 Chapter 4, Section .0500 of the North Carolina Administrative Code, the disclosure
32 requirements of subsection (b) of this section are deemed to have been met.

33 **"§ 58-60-60. Disclosure of payment methods.**

34 In accordance with the disclosure simplification standards set forth in G.S. 58-60-80,
35 at the time an insurance policy is issued through the home service distribution system,
36 the insurer shall disclose:

37 (1) What premium savings may be realized by a different method or less
38 frequent mode of premium payment.

39 (2) That premiums are still due and payable by the person responsible for
40 premium payments even when an agent does not collect the premiums.

41 (3) The mailing address for payment of premiums to the company.

42 (4) That the consumer is entitled to receive a receipt for premium
43 payments when premium payments are made in cash or in person.

44 **"§ 58-60-65. Evidence of payment.**

1 For every premium collected on a policy of life or disability insurance marketed,
2 sold, or serviced through the home service distribution system in this State, the agent,
3 solicitor, or broker, or any employee acting on the agent, solicitor, or broker's behalf,
4 collecting or receiving the premium in person shall:

5 (1) Maintain and furnish to the policyholder a receipt indicating payment
6 of premiums, which shall provide the payor with clearly
7 understandable, written evidence of payment at the time the premium
8 is collected. At a minimum it shall clearly show:

9 a. The name of the payor.

10 b. The name of insured under each policy covered by the
11 premium.

12 c. The amount paid.

13 d. The date paid.

14 e. The date paid-to-status of the policy.

15 f. The policy number.

16 g. The face amount and type of policy for which the payment will
17 be credited.

18 h. The signature of the agent.

19 i. The agent's printed name and unique identification number.

20 j. The name, complete address, and phone number of the insurer.

21 (2) Remit to the insurer's home office or applicable district office, or
22 deposit in a fiduciary account, the premium collected on behalf of the
23 policyholder within 10 days of receipt from the premium payor or
24 policy owner. In the event that the insurer utilizes an accounting
25 system based on a monthly list bill, all premiums collected shall be
26 credited from the date of collection. The premium shall be fully
27 applied to that particular account.

28 **"§ 58-60-70. Proof of policy delivery.**

29 If an insurance policy marketed, sold, or serviced through the home service
30 distribution system is delivered by an agent, solicitor, or broker, or an employee acting
31 on the agent, solicitor, or broker's behalf, a receipt shall be signed by the purchaser and
32 the agent acknowledging delivery to the purchaser of the policy or contract and the
33 disclosures required by this Part. The receipt shall contain the name of the purchaser,
34 the policy or contract number, the amount of the initial premium payment, and the date
35 the delivery was completed. A policy shall be deemed to have been received six months
36 after the date of issuance if the insured has paid premiums pursuant to the contract. All
37 delivery receipts required by this section shall be retained by the company for not less
38 than three years following delivery and shall be available for inspection upon request of
39 the Commissioner.

40 **"§ 58-60-75. Company duties.**

41 Each insurer engaged in the home service distribution system in this State shall
42 make available to the Commissioner for review:

43 (1) Established written procedures to audit agencies engaged in the home
44 service system of distribution of policies in this State; and

- 1 (2) Proof of audits conducted periodically that reasonably ensure that the
2 premium payor's records accurately reflect the premium due date and
3 premium paid-to-status of the policy or policies purchased.

4 **"§ 58-60-80. Minimum disclosure language standards.**

5 All disclosure forms shall comply with the readability standards in Article 38 of this
6 Chapter. It is presumed the disclosure form in Appendix A of the NAIC's Home Service
7 Disclosure Model Act complies with this Part."

8 **SECTION 3.6.** Article 60 of Chapter 58 of the General Statutes is amended
9 by adding a new Part to read:

10 "Part 3. Regulation of Small Face Amount Life Insurance Solicitation.

11 **"§ 58-60-85. Title and reference.**

12 This Part may be cited as the "Small Face Amount Life Insurance Disclosure Act".

13 **"§ 58-60-90. Purpose; intent; and scope.**

14 (a) The purpose of this Part is to establish standards that ensure meaningful
15 information is provided to the purchasers of small face amount policies.

16 (b) This Part applies to any life insurance policy or certificate with an initial face
17 amount of fifteen thousand dollars (\$15,000) or less.

18 (c) This Part does not apply to:

19 (1) Variable life insurance.

20 (2) Individual and group annuity contracts.

21 (3) Credit life insurance.

22 (4) Group or individual policies of life insurance issued to members of an
23 employer group or other permitted group where:

24 a. Every plan of coverage was selected by the employer or other
25 group representative;

26 b. Some portion of the premium is paid by the group or through
27 payroll deduction; and

28 c. Group underwriting or simplified underwriting is used.

29 (5) Policies and certificates where an illustration has been provided
30 pursuant to the requirements of Title 11, Chapter 4, Section .0500 of
31 the North Carolina Administrative Code.

32 **"§ 58-60-95. Disclosure requirements.**

33 (a) An insurer issuing a small face amount policy shall provide the current
34 disclosure included in Appendix A of the NAIC Disclosure for Small Face Amount Life
35 Insurance Policies Model Act if at any point in time over the term of the policy the
36 cumulative premiums paid may exceed the face amount of the policy at that point in
37 time. The required disclosure shall be provided to the policy owner or certificate holder
38 no later than at the time the policy or certificate is delivered. The disclosure shall not be
39 attached to the policy but may be delivered with the policy.

40 (b) If, for a particular policy form, the cumulative premiums may exceed the face
41 amount for some demographic or benefit combination but not for all combinations, the
42 insurer may choose to either:

43 (1) Provide the disclosure only in those circumstances where the
44 premiums may exceed the face amount; or

1 (2) Provide the disclosure for all demographic and benefit
2 combinations.

3 (c) Cumulative premiums shall include premiums paid for riders. However, the
4 face amount shall not include the benefits attributable to the riders.

5 **"§ 58-60-100. Insurer duties.**

6 The insurer and its producers shall have a duty to provide information to
7 policyholders or certificate holders that ask questions about the disclosure statement."

8 **SECTION 3.7.** Article 60 of Chapter 58 of the General Statutes is amended
9 by adding a new Part to read:

10 "Part 4. Regulation of Annuity Solicitation.

11 **"§ 58-60-105. Title and reference.**

12 This Part may be cited as the "Annuity Disclosure Act".

13 **"§ 58-60-110. Purpose; intent; scope.**

14 (a) The purpose of this Part is to provide standards for the disclosure of certain
15 minimum information about annuity contracts to protect consumers and foster consumer
16 education. This Part specifies the minimum information that must be disclosed and the
17 method for disclosing it in connection with the sale of annuity contracts. The goal of
18 this Part is to ensure that purchasers of annuity contracts understand certain basic
19 features of annuity contracts.

20 (b) This Part applies to all group and individual annuity contracts and certificates
21 except:

22 (1) Registered or nonregistered variable annuities or other registered
23 products.

24 (2) Immediate and deferred annuities that contain no nonguaranteed
25 elements.

26 (3) Annuities used to fund:

27 a. An employee pension plan, which is covered by the Employee
28 Retirement Income Security Act (ERISA);

29 b. A plan described by section 401(a), 401(k), or 403(b) of the
30 Internal Revenue Code, where the plan, for purposes of ERISA,
31 is established or maintained by an employer;

32 c. A governmental or church plan defined in section 414, or a
33 deferred compensation plan of a state or local government or a
34 tax exempt organization under section 457, of the Internal
35 Revenue Code;

36 d. A nonqualified deferred compensation arrangement established
37 or maintained by an employer or plan sponsor;

38 e. Structured settlement annuities;

39 f. Charitable gift annuities; or

40 g. Funding agreements.

41 (c) This Part shall apply to annuities used to fund a plan or arrangement that is
42 funded solely by contributions an employee elects to make, whether on a pre-tax or
43 after-tax basis, and where the insurance company has been notified that plan
44 participants may choose from among two or more fixed annuity providers and there is a

1 direct solicitation of an individual employee by a producer for the purchase of an
2 annuity contract. As used in this subsection, direct solicitation shall not include any
3 meeting held by a producer solely for the purpose of educating or enrolling employees
4 in the plan or arrangement.

5 **"§ 58-60-115. Definitions.**

6 As used in this Part:

7 (1) "Annuity buyer's guide" or "buyer's guide" means the current NAIC
8 Model Buyer's Guide to Fixed Deferred Annuities, including any
9 appendix thereto.

10 (2) "Charitable gift annuity" means a transfer of cash or other property by
11 a donor to a charitable organization in return for an annuity payable
12 over one or two lives, under which the actuarial value of the annuity is
13 less than the value of the cash or other property transferred and the
14 difference in value constitutes a charitable deduction for federal tax
15 purposes but does not include a charitable remainder trust or a
16 charitable lead trust or other similar arrangement where the charitable
17 organization does not issue an annuity and incur a financial obligation
18 to guarantee annuity payments.

19 (3) "Contract owner" means the owner named in the annuity contract or
20 certificate holder in the case of a group annuity contract.

21 (4) "Determinable elements" means elements that are derived from
22 processes or methods that are guaranteed at issue and not subject to
23 company discretion but where the values or amounts cannot be
24 determined until some point after issue. These elements include the
25 premiums, credited interest rates (including any bonus), benefits,
26 values, noninterest-based credits, charges, or elements of formulas
27 used to determine any of these. These elements may be described as
28 guaranteed but not determined at issue. An element is considered
29 determinable if it was calculated from underlying determinable
30 elements only or from both determinable and guaranteed elements.

31 (5) "Disclosure document" means the document the contents of which are
32 described in G.S. 58-60-125.

33 (6) "Funding agreement" means an agreement for an insurer to accept and
34 accumulate funds and to make one or more payments at future dates in
35 amounts that are not based on mortality or morbidity contingencies.

36 (7) "Generic name" means a short title descriptive of the annuity contract
37 being applied for or illustrated such as "single premium deferred
38 annuity".

39 (8) "Guaranteed elements" means the premiums, credited interest rates,
40 including any bonus, benefits, values, noninterest-based credits,
41 charges, or elements of formulas used to determine any of these, that
42 are guaranteed and determined at issue. An element is considered
43 guaranteed if all of the underlying elements that go into its calculation
44 are guaranteed.

1 (9) "Nonguaranteed elements" means the premiums, credited interest rates
2 (including any bonus), benefits, values, noninterest-based credits,
3 charges, or elements of formulas used to determine any of these that
4 are subject to company discretion and are not guaranteed at issue. An
5 element is considered nonguaranteed if any of the underlying
6 nonguaranteed elements are used in its calculation.

7 (10) "Structured settlement annuity" means a "qualified funding asset" as
8 defined in section 130(d) of the Internal Revenue Code or an annuity
9 that would be a qualified funding asset under section 130(d) but for the
10 fact that it is not owned by an assignee under a qualified assignment.

11 **"§ 58-60-120. Standards for the disclosure document and buyer's guide.**

12 (a) Where the application for an annuity contract is taken in a face-to-face
13 meeting, the applicant, at or before the time of application, shall be given both the
14 disclosure document described in G.S. 58-60-125 and a copy of the buyer's guide.

15 (b) Where the application for an annuity contract is taken by means other than in
16 a face-to-face meeting, the applicant shall be sent both the disclosure document and the
17 buyer's guide no later than five business days after the completed application is received
18 by the insurer.

19 (1) With respect to an application received as a result of a direct
20 solicitation through the mail:

21 a. Providing a buyer's guide in a mailing inviting prospective
22 applicants to apply for an annuity contract shall be deemed to
23 satisfy the requirement that the buyer's guide be provided no
24 later than five business days after receipt of the application.

25 b. Providing a disclosure document in a mailing inviting a
26 prospective applicant to apply for an annuity contract shall be
27 deemed to satisfy the requirement that the disclosure document
28 be provided no later than five business days after receipt of the
29 application.

30 (2) With respect to an application received via the Internet:

31 a. Taking reasonable steps to make the buyer's guide available for
32 viewing and printing on the insurer's web site shall be deemed
33 to satisfy the requirement that the buyer's guide be provided no
34 later than five business days after receipt of the application.

35 b. Taking reasonable steps to make the disclosure document
36 available for viewing and printing on the insurer's web site shall
37 be deemed to satisfy the requirement that the disclosure
38 document be provided no later than five business days after
39 receipt of the application.

40 (3) A solicitation for an annuity contract provided in other than a
41 face-to-face meeting shall include a statement that the proposed
42 applicant may contact the Department for a free annuity buyer's guide.
43 In lieu of the foregoing statement, an insurer may include a statement

1 that the prospective applicant may contact the insurer for a free annuity
2 buyer's guide.

3 (c) Where the buyer's guide and disclosure document are not provided at or
4 before the time of application, a free look period of no less than 15 days shall be
5 provided for the applicant to return the annuity contract without penalty. This free look
6 shall run concurrently with any other free look provided under State law or regulation.

7 **"§ 58-60-125. Contents of disclosure document.**

8 At a minimum, all of the following information shall be included in the disclosure
9 document required under this Part:

- 10 (1) The generic name of the contract, the company product name, if
11 different, and form number, and the fact that it is an annuity.
- 12 (2) The insurer's name and address.
- 13 (3) A description of the contract and its benefits, emphasizing its
14 long-term nature, including the following, if appropriate:
- 15 a. The guaranteed, nonguaranteed, and determinable elements of
16 the contract, and their limitations, if any, and an explanation of
17 how they operate.
- 18 b. An explanation of the initial crediting rate, specifying any
19 bonus or introductory portion, the duration of the rate, and the
20 fact that rates may change from time to time and are not
21 guaranteed.
- 22 c. Periodic income options both on a guaranteed and
23 nonguaranteed basis.
- 24 d. Any value reductions caused by withdrawals from or surrender
25 of the contract.
- 26 e. How values in the contract can be accessed.
- 27 f. The death benefit, if available, and how it will be calculated.
- 28 g. A summary of the federal tax status of the contract and any
29 penalties applicable on withdrawal of values from the contract.
- 30 h. The impact of any rider, such as a long-term care rider.
- 31 (4) The specific dollar amount or percentage charges and fees with an
32 explanation of how they apply.
- 33 (5) Information about the current guaranteed rate for new contracts that
34 contains a clear notice that the rate is subject to change.

35 Insurers shall define terms used in the disclosure statement in language that
36 facilitates the understanding by a typical person within the segment of the public to
37 which the disclosure statement is directed.

38 **"§ 58-60-130. Report to contract owners.**

39 For annuities in the payout period with changes in nonguaranteed elements and for
40 the accumulation period of a deferred annuity, the insurer shall provide each contract
41 owner with a report, at least annually, on the status of the contract that contains at least
42 all of the following information:

- 43 (1) The beginning and end date of the current report period.

- 1 (2) The accumulation and cash surrender value, if any, at the end of the
2 previous report period and at the end of the current report period.
3 (3) The total amounts, if any, that have been credited, charged to the
4 contract value, or paid during the current report period.
5 (4) The amount of outstanding loans, if any, as of the end of the current
6 report period."

7
8 **PART IV. EMPLOYER-OWNED LIFE INSURANCE DISCLOSURE**

9 **SECTION 4.** G.S. 58-58-75 reads as rewritten:

10 **"§ 58-58-75. Insurable interest in life and physical ability of employee or agent.**

11 (a) An employer, whether a partnership, joint venture, business trust, mutual
12 association, corporation, any other form of business organization, or one or more
13 individuals, or any religious, educational, or charitable corporation, institution or body,
14 has an insurable interest in and the right to insure the physical ability or the life, or both
15 the physical ability and the life, of an employee for the benefit of such employer. Any
16 principal shall have a life insurable interest in and the right to insure the physical ability
17 or the life, or both the physical ability and the life, of an agent for the benefit of such
18 principal.

19 (b) An employee described in subsection (a) of this section shall be insured for
20 the benefit of an employer described in subsection (a) of this section only if the
21 employee receives written notification from the insurer of the existence of the coverage.
22 The notice shall be provided to the employee within 30 days after the effective date of
23 the coverage and shall include a statement that the employer may maintain the life
24 insurance coverage on the employee even after employment is terminated.

25 (c) For nonkey or nonmanagerial employees, the aggregate amount of coverage
26 shall be reasonably related to the benefits provided to the employees in the aggregate.

27 (d) With respect to employer-provided pension and welfare plans, the life
28 insurance coverage purchased to finance the plans may only cover the lives of those
29 employees and retirees who, at the time their lives were first insured under the plan,
30 either are participants, or would be eligible to participate, upon the satisfaction of age,
31 service, or similar eligibility criteria in the plan."

32
33 **PART V. ACTUARIALLY SOUND ASSOCIATION GROUP ACCIDENT**
34 **AND HEALTH PREMIUM RATES**

35 **SECTION 5.** G.S. 58-51-80(1a) reads as rewritten:

36 (1a) Under a policy issued to an association or to a trust or to the trustee or
37 trustees of a fund established, created, or maintained for the benefit of
38 members of one or more associations. The association or associations
39 shall have at the outset a minimum of 500 persons and shall have been
40 organized and maintained in good faith for purposes other than that of
41 obtaining insurance; shall have been in active existence for at least five
42 years; and shall have a constitution and bylaws that provide that (i) the
43 association or associations hold regular meetings not less than annually
44 to further purposes of the members; (ii) except for credit unions, the

1 association or associations collect dues or solicit contributions from
2 members; and (iii) the members, other than associate members, have
3 voting privileges and representation on the governing board and
4 committees. The policy is subject to the following requirements:

5 a. The policy may insure members of the association or
6 associations, employees of the association or associations, or
7 employees of members, or one or more of the preceding or all
8 of any class or classes for the benefit of persons other than the
9 employee's employer.

10 b. The premium for the policy shall be paid from funds
11 contributed by the association or associations, or by employer
12 members, or by both, or from funds contributed by the covered
13 persons or from both the covered persons and the association,
14 associations, or employer members. The premium rates for each
15 association policy shall be developed, and applied to the
16 certificates thereunder, on an actuarially sound basis.

17 c. Repealed by Session Laws 1997-259, s. 8."
18

19 PART VI. INDIVIDUAL ACCIDENT AND HEALTH INSURANCE 20 RENEWAL RATE LIMITATIONS

21 SECTION 6. G.S. 58-51-95 is amended by adding a new subsection to read:

22 "(g) For policies subject to this section, an individual health insurer shall not
23 increase an individual's renewal premium for continued health insurance coverage under
24 the terms of the individual's health insurance policy based on any health status-related
25 factors in relation to the individual or a dependent of the individual, including:

26 (1) Health status.

27 (2) Medical condition (including both physical and mental illnesses).

28 (3) Claims experience.

29 (4) Duration from issue.

30 (5) Receipt of health care.

31 (6) Medical history.

32 (7) Genetic information."
33

34 PART VII. LARGE GROUP HEALTH INSURANCE SOLE PROPRIETOR 35 EXEMPTION

36 SECTION 7. G.S. 58-65-60 is amended by adding a new subsection to read:

37 "(e3) When determining employee eligibility for a large employer, as defined in
38 G.S. 58-68-25(10), an individual proprietor, owner, or operator shall be defined as an
39 "employee" for the purpose of obtaining coverage under the employee group health plan
40 and shall not be held to a minimum workweek requirement as imposed on other eligible
41 employees."

42 SECTION 7.1. G.S. 58-67-85 is amended by adding a new subsection to
43 read:

1 "(d1) When determining employee eligibility for a large employer, as defined in
2 G.S. 58-68-25(1), an individual proprietor, owner, or operator shall be defined as an
3 "employee" for the purpose of obtaining coverage under the employee group health plan
4 and shall not be held to a minimum workweek requirement as imposed on other eligible
5 employees."

6 **SECTION 7.2.** G.S. 58-51-80(c) reads as rewritten:

7 "(c) The term "employees" as used in this section shall be deemed to include, for
8 the purposes of insurance hereunder, employees of a single employer, the officers,
9 managers, and employees of the employer and of subsidiary or affiliated corporations of
10 a corporation employer, and the individual proprietors, partners, and employees of
11 individuals and firms of which the business is controlled by the insured employer
12 through stock ownership, contract or otherwise. Employees shall be added to the group
13 coverage no later than 90 days after their first day of employment. Employment shall be
14 considered continuous and not be considered broken except for unexcused absences
15 from work for reasons other than illness or injury. The term "employee" is defined as a
16 nonseasonal person who works on a full-time basis, with a normal work week of 30 or
17 more hours and who is otherwise eligible for coverage, but does not include a person
18 who works on a part-time, temporary, or substitute basis. The term "employer" as used
19 herein may be deemed to include the State of North Carolina, any county, municipality
20 or corporation, or the proper officers, as such, of any unincorporated municipality or
21 any department or subdivision of the State, county, such corporation, or municipality
22 determined by conditions pertaining to the employment. When determining employee
23 eligibility for a large employer, as defined in G.S. 58-68-25(10), an individual
24 proprietor, owner, or operator shall be defined as an "employee" for the purpose of
25 obtaining coverage under the employee group health plan and shall not be held to a
26 minimum workweek requirement as imposed on other eligible employees."

27 28 **PART VIII. NEWBORN COVERAGE REINSTATEMENT**

29 **SECTION 8.** G.S. 58-51-30(b) reads as rewritten:

30 "(b) Every health benefit plan, as defined in ~~G.S. 58-3-167~~, G.S. 58-51-115(a)(1),
31 that provides benefits for any sickness, illness, or disability of any minor child or that
32 provides benefits for any medical treatment or service furnished by a health care
33 provider or institution to any minor child shall provide the benefits for those
34 occurrences beginning with the moment of the child's birth if the birth occurs while the
35 plan is in force. Every health benefit plan shall extend coverage to a newborn child
36 without requirements for prior notification unless an additional premium charge to add
37 the dependent is due. If an additional premium charge is due to cover the dependent, the
38 health benefit plan shall cover the newborn child from the moment of birth if the
39 newborn is enrolled within 30 days after the date of birth. Foster children and adopted
40 children shall be treated the same as newborn infants and eligible for coverage on the
41 same basis upon placement in the foster home or placement for adoption. Every health
42 benefit plan shall extend coverage to a foster child or adopted child without
43 requirements for prior notification unless an additional premium charge to add the foster
44 child or adopted child is due. If an additional premium charge is due to cover the foster

1 child or adopted child, the health benefit plan shall cover the foster child or adopted
2 child upon placement in the foster home or placement for adoption if the foster child or
3 adopted child is enrolled within 30 days after the placement in the foster home or
4 placement for adoption."

5
6 **PART IX. LIMITED HEALTH, SUPPLEMENTAL HEALTH, AND**
7 **SPECIFIED DISEASE POLICIES TECHNICAL CORRECTIONS**

8 **SECTION 9.** G.S. 58-51-15(a)(2)b. reads as rewritten:

9 "b. This policy contains a provision limiting coverage for
10 preexisting conditions. Preexisting conditions are covered under
11 this policy _____ (insert number of months or days, not to
12 exceed one year) after the effective date of coverage.
13 Preexisting conditions mean "those conditions for which
14 medical advice, diagnosis, care, or treatment was received or
15 recommended within the one-year period immediately
16 preceding the effective date of the person's coverage." ~~Credit~~
17 Except for the excepted benefits described in G.S. 58-68-25(b),
18 credit for having satisfied some or all of the preexisting
19 condition waiting periods under previous health benefits
20 coverage shall be given in accordance with G.S. 58-68-30."

21 **SECTION 9.1.** G.S. 58-51-15(h) reads as rewritten:

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

24 (1) ~~Policies-~~ policies issued to eligible individuals under G.S. 58-68-60.

25 (2) ~~Excepted benefits as described in G.S. 58-68-25(b).~~"

26
27 **PART X. SMALL EMPLOYER HEALTH REINSURANCE POOL BOARD**
28 **AMENDMENTS**

29 **SECTION 10.** G.S. 58-50-150(b) reads as rewritten:

30 "(b) ~~Within 30 days after January 1, 1992, the Commissioner shall give notice to~~
31 ~~all carriers of the time and place for the initial organizational meeting, which shall take~~
32 ~~place within 90 days after the notice from the Commissioner.~~ The members shall select
33 the initial Board, subject to the Commissioner's approval. The Board shall consist of
34 ~~nine~~ six members. There shall be no more than two members of the Board representing
35 any one carrier. In determining voting rights at the organizational meeting, each
36 member shall be entitled to vote in person or by proxy. ~~The voting rights to determine~~
37 ~~initial Board membership shall be weighted based upon net group health benefit plan~~
38 ~~premium derived from this State in the previous calendar year. Thereafter, voting~~
39 Voting rights shall be based on net group health benefit plan premium derived from
40 small employer business. The Board shall at all times, to the extent possible, include at
41 least one domestic insurance company licensed to transact accident and health
42 insurance, one HMO, one nonprofit hospital or medical service plan. ~~Six~~ Five of the
43 members of the Board shall be small employer carriers. In approving selection of the
44 Board, the Commissioner shall assure that all members are fairly represented."

1
2 **PART XI. EQUITABLE ENROLLMENT PERIOD FOR SUPPLEMENTAL**
3 **MEDICARE PLANS**

4 **SECTION 11.** G.S. 58-54-45(a) reads as rewritten:

5 "(a) In addition to any rule adopted under this Article that is directly or indirectly
6 related to open enrollment, an insurer shall at least make standardized Medicare
7 Supplement Plans A, C, and J available to persons eligible for Medicare by reason of
8 disability before age 65. This action shall be taken without regard to medical condition,
9 claims experience, or health status. To be eligible, a person must submit an application
10 during the six-month period beginning with the first month the person first enrolls in
11 Medicare Part B. For those persons that are retroactively enrolled in Medicare Part B
12 due to a retroactive eligibility decision made by the Social Security Administration, the
13 application must be submitted within a six-month period beginning with the month in
14 which the person receives notification of the retroactive eligibility decision."

15
16 **PART XII. REVOCATION AND SUSPENSION TECHNICAL CORRECTION**

17 **SECTION 12.** G.S. 58-3-100(c) reads as rewritten:

18 "(c) The Commissioner may impose a civil penalty under G.S. 58-2-70 if an
19 HMO, service corporation, MEWA, or insurer fails to acknowledge a claim within 30
20 days after receiving written or electronic notice of the claim, but only if the notice
21 contains sufficient information for the insurer to identify the specific coverage involved.
22 Acknowledgement of the claim shall be one of the following:

- 23 (1) A statement made to the claimant or to the claimant's legal
24 representative advising that the claim is being investigated.
25 (2) Payment of the claim.
26 (3) A bona fide written offer of settlement.
27 (4) A written denial of the claim.

28 A claimant includes an insured, a beneficiary of life or annuity contract, a health care
29 provider, or a health care facility that is responsible for directly making the claim with
30 an insurer, HMO, service corporation, or MEWA. With respect to a claim under an
31 accident, health, or disability policy, if the acknowledgement sent to the claimant
32 indicates that the claim remains under investigation, within 45 days after receipt by the
33 insurer of the initial claim, the insurer shall send a claim status report to the insured and
34 every 45 days thereafter until the claim is paid or denied. The report shall give details
35 sufficient for the insured to understand why processing of the claim has not been
36 completed and whether the insurer needs additional information to process the claim. If
37 the claim acknowledgement includes information about why processing of the claim has
38 not been completed and indicates whether additional information is needed, it may
39 satisfy the requirement for the initial claim status report. This subsection does not apply
40 to HMOs, service corporations, MEWAs or insurers subject to G.S. 58-3-225."

41
42 **PART XIII. HEALTH BENEFIT PLAN TRAVEL EXPENSES COVERAGE**

43 **SECTION 13.** Article 3 of Chapter 58 of the General Statutes is amended by
44 adding a new section to read:

1 "§ 58-3-270. Insurance coverage for travel expenses associated with obtaining
2 care.

3 (a) As used in this section, the terms "health benefit plan" and "insurer" have the
4 meaning as found in G.S. 58-3-167.

5 (b) Each health benefit plan shall provide coverage for reasonable transportation,
6 lodging, and boarding expenses incurred by a covered person to access covered health
7 care services when the insurer, through its referral or network contracting arrangements,
8 requires the covered person to travel more than 250 miles from the covered person's
9 residence to obtain those covered health care services from a network provider.

10 (c) The coverage specified by this section is limited to transportation, lodging
11 and boarding expenses incurred by a covered person when required by the health plan to
12 travel to access covered health care services as provided in subsection (b) of this section
13 when those health care services are not also available from a network provider who is
14 located within 250 miles of the covered person's residence.

15 (d) The coverage required by this section shall be subject to plan requirements
16 including any overall health care benefit plan aggregate limitations and shall last for the
17 duration of the health care benefit plan's coverage of the treatment subject to this
18 section. An insurer may utilize a per diem limit for the expenses specified in subsection
19 (c) of this section as long as the limit reflects the high-low per diem method as annually
20 published by the Internal Revenue Service or the Domestic Per Diem Rate as published
21 annually by the federal General Services Administration in the area where the health
22 care services are being obtained. All travel, lodging, and boarding expenses in excess of
23 the insurer's per diem or the health benefit plan's aggregate limits shall be the
24 responsibility of the covered person.

25 (e) An insurer may require prior approval of all expenses subject to this section.

26 (f) The coverage required by this section shall apply only to those travel,
27 lodging, and boarding expenses incurred by the covered person accessing covered
28 health care services in accordance with this section. If the covered person accessing
29 covered health care services in accordance with this section is a minor, the health
30 benefit plan shall also cover the expenses specified in subsection (c) of this section for a
31 parent or guardian who accompanies the minor."

32
33 **PART XIV. CREDIT INSURANCE AMENDMENTS**

34 **SECTION 14.** G.S. 58-57-5 is amended by adding a new subdivision to
35 read:

36 "(5a) "Critical period coverage" means insurance coverage for which
37 benefits are limited to a stated number of payments or the payments
38 end with the expiration of the policy, whichever is less."

39 **SECTION 14.1.** G.S. 58-57-50(b) reads as rewritten:

40 "(b) The refund of premiums for decreasing term credit life insurance shall be
41 equal to the premium that would be charged for the remaining term and amount of
42 coverage in the policy. The refund of premiums for decreasing term credit life insurance
43 in transactions of 60 months duration or less and the refund of premiums for single
44 interest credit property insurance and single interest physical damage insurance shall be

1 equal to the amount computed by the sum of digits formula known as the "Rule of 78."
2 ~~The refund of premiums for decreasing term credit life insurance in transactions of more~~
3 ~~than 60 months duration shall be equal to the premium that would be charged for the~~
4 ~~remaining term and amount of coverage in the policy.~~ The refund of premiums for level
5 term credit life insurance and dual interest credit property insurance and dual interest
6 physical damage insurance shall be equal to the pro rata unearned gross premiums."

7 **SECTION 14.2.** G.S. 58-57-55 reads as rewritten:

8 **"§ 58-57-55. Issuance of policies.**

9 All policies of credit life insurance and credit accident and health insurance shall be
10 issued only by an insurer authorized to do business in this State and shall be issued only
11 through holders of licenses or authorizations issued by the Commissioner. ~~All~~ With the
12 exception of credit insurance issued in accordance with G.S. 58-57-105, all policies of
13 credit life insurance and credit accident and health insurance shall be delivered or issued
14 for delivery in this State only by an insurer authorized to do an insurance business
15 therein, and shall be issued only through holders of licenses or authorizations issued by
16 the Commissioner. ~~State.~~ The enrollment of debtors under a group policy issued to a
17 creditor and authorized under this Article shall not constitute the issuance of a policy of
18 insurance."

19 **SECTION 14.3.** G.S. 58-57-60 is amended by adding a new subsection to
20 read:

21 "(d) A claim acknowledgement shall be sent to the claimant within 30 days after
22 receiving written or electronic notice of the claim. Acknowledgement shall include the
23 following:

- 24 (1) A statement made to the insured or the claimant advising that the claim
25 is being investigated.
26 (2) Payment of the claim.
27 (3) A bona fide written offer of settlement.
28 (4) A written denial of the claim."

29 **SECTION 14.4.** G.S. 58-57-110 reads as rewritten:

30 **"§ 58-57-110. Credit unemployment insurance rate standards; policy provisions.**

31 (a) Each year the Commissioner shall prescribe a minimum incurred loss ratio
32 standard requirement to develop a premium rate reasonable in relation to the benefits
33 provided by credit unemployment insurance coverage. The following requirements must
34 be met:

- 35 (1) Coverage is provided or offered, with or without underwriting, to all
36 debtors regardless of age who are working for salary, wages, or other
37 employment income for at least 30 hours per week and have done so
38 for 12 consecutive months;
39 (2) Coverage sets forth a definition of involuntary unemployment as a loss
40 of employment income that may include, but is not limited to, loss
41 caused by layoff, general strike, termination of employment, or
42 lockout;
43 (3) Coverage does not contain any exclusion except: debts with irregular
44 monthly payments; voluntary forfeiture of salary, wages, or other

1 employment income; resignation; retirement; sickness, disease, or
2 normal pregnancy; or loss of income due to termination as a result of
3 willful misconduct that is a violation of some established, definite rule
4 of conduct, a forbidden act, or willful dereliction of duty, or criminal
5 ~~misconduct~~misconduct;

6 (4) As long as there is no required time period limitation for registration,
7 the insured may be required to register with the State unemployment
8 office in order to qualify for benefit payments under the credit
9 unemployment coverage. Qualification for State unemployment
10 benefits shall not be required in order to qualify for benefit payments
11 under the credit unemployment coverage.

12 (b) The Commissioner may approve other policy provisions and coverages
13 consistent with the purposes of unemployment coverage.

14 (c) Joint coverage rates for credit unemployment insurance shall be one and
15 two-thirds (1 2/3) times the approved single rate of coverage.

16 (d) The refund provision for credit unemployment insurance shall be equal to the
17 pro rata unearned gross premium."

18
19 **PART XV. EFFECT OF HEADINGS, SEVERABILITY, AND EFFECTIVE**
20 **DATES**

21 **SECTION 15.** The headings to the parts of this act are a convenience to the
22 reader and are for reference only. The headings do not expand, limit, or define the text
23 of this act.

24 **SECTION 15.1.** If any section or provision of this act is declared
25 unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the
26 validity of the act as a whole or any part other than the part so declared to be
27 unconstitutional, preempted, or otherwise invalid.

28 **SECTION 15.2.** Sections 1 through 8 and Sections 9, 9.1, 13, 14, 14.1, 14.2,
29 14.3, and 14.4 of this act become effective January 1, 2004, and apply to policies or
30 certificates issued or renewed on or after that date. The remainder of this act is effective
31 when it becomes law and applies to policies or certificates issued or renewed on or after
32 that date.