

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 1438
SENATE BILL 1325

AN ACT TO AMEND CHAPTER 58 OF THE GENERAL STATUTES OF NORTH CAROLINA BY ADDING A NEW ARTICLE THERETO TO BE KNOWN AS ARTICLE 17C.

The General Assembly of North Carolina enacts:

Section 1. Chapter 58 of the General Statutes of North Carolina is amended by adding a new Article thereto as follows:

"Article 17C.

"Life and Accident and Health Insurance Guaranty Association.

"§ 58-155.60. **Title.** — This Article shall be known and may be cited as the 'Life and Accident and Health Insurance Guaranty Association Act'.

"§ 58-155.61. **Purpose.** — The purpose of this Article is to maintain public confidence in the promises of insurers, to provide a mechanism for the payment of covered claims under certain insurance policies, to assist in the detection and prevention of insurer insolvencies, and to protect policy owners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts. To provide this protection, (1) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages, (2) members of the Association are subject to assessment to provide funds to carry out the purpose of this Article, and (3) the Association is authorized to assist the Commissioner, in the prescribed manner, in the detection and prevention of insurer impairments.

"§ 58-155.62. **Scope.** — (1) This Article shall apply to direct life policies, accident and health insurance policies, annuity contracts, variable contracts, and contracts supplemental to life and accident and health insurance policies and annuity contracts issued by persons authorized to transact insurance in this State at any time.

(2) This Article shall not apply to:

- (a) Any such policies or contracts, or any part of such policies or contracts under which the risk is borne by the policyholder;
- (b) Any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;
- (c) Any policy or contract issued by a corporation governed by the provisions of Chapter 57 of the General Statutes;
- (d) Any policy or contract issued by a fraternal order or society.

"§ 58-155.63. **Construction.** — This Article shall be liberally construed to effect the purpose under G.S. 58-155.61 which shall constitute an aid and guide to interpretation.

"§ 58-155.64. **Definitions.** — As used in this Article:

- (1) 'Account' means either of the three accounts created under G.S. 58-155.65.
- (2) 'Association' means the Life and Accident and Health Insurance Guaranty Association created under G.S. 58-155.65.

- (3) 'Commissioner' means the Commissioner of Insurance of this State.
- (4) 'Contractual obligation' means any obligation under covered policies.
- (5) 'Covered policy' means any policy or contract within the scope of this Article under G.S. 58-155.62.
- (6) 'Impaired insurer' means
- (a) an insurer which after the effective date of this Article, becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction, or
 - (b) an insurer deemed by the Commissioner after the effective date of this Article to be unable or potentially unable to fulfill its contractual obligations.
- (7) 'Member insurer' means any person authorized to transact in this State any kind of insurance to which this Article applies under G.S. 58-155.62.
- (8) 'Premiums' means direct gross insurance premiums and annuity considerations written on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. 'Premiums' do not include premiums and considerations on contracts between insurers and reinsurers. As used in G.S. 58-155.68 'premiums' are those for the calendar year preceding the determination of impairment.
- (9) 'Person' means any individual, corporation, partnership, association or voluntary organization.
- (10) 'Resident' means any person who resides in this State at the time the impairment is determined and to whom contractual obligations are owed.

"§ 58-155.65. Creation of the Association. — (1) There is created a nonprofit legal entity to be known as the Life and Accident and Health Insurance Guaranty Association. As a condition of their authority to transact insurance in this State, all member insurers shall be and remain members of the Association and shall be jointly and severally liable for all contractual obligations incurred by impaired insurers of the Association. The Association shall perform its functions under the plan of operation established and approved under G.S. 58-155.69 and shall exercise its powers through a board of directors established under G.S. 58-155.66. For purposes of administration and assessment, the Association shall maintain three accounts:

- (a) The accident and health insurance account;
- (b) The life insurance account; and
- (c) The annuity account.

(2) The Association shall come under the immediate supervision of the Commissioner and shall be subject to the applicable provisions of the insurance laws of this State.

"§ 58-155.66. Board of directors. — (1) The board of directors of the Association shall consist of not less than five nor more than nine members serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the Commissioner. Vacancies on the board shall be filled for the remaining period of the term in the manner described in the plan of operation. To select the initial board of directors, and initially organize the Association, the Commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting each member insurer shall be entitled to one vote in person or by proxy. If the board of directors is not selected within 60 days after notice of the organizational meeting, the Commissioner may appoint the initial members.

(2) In approving selections or in appointing members to the board, the Commissioner shall consider, among other things, whether all member insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the Association for expenses incurred by them as members of the board of directors but members of the board shall not otherwise be compensated by the Association for their services.

"§ 58-155.67. Powers and duties of the Association. — In addition to the powers and duties enumerated in other sections of this Article:

(1) If a domestic insurer is an impaired insurer, the Association may, prior to an order of liquidation or rehabilitation, and subject to any conditions imposed by the Association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the Commissioner:

- (a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, all the covered policies of the impaired insurer;
- (b) Provide such monies, pledges, notes, guarantees, or other means as are proper to effectuate paragraph (a), and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a);
- (c) Loan money to the impaired insurer.

If the Association fails to act within a reasonable period of time, the Commissioner shall have the powers and duties of the Association under this Article with respect to such domestic impaired insurer.

(2) If a foreign or alien insurer is an impaired insurer, the Association may, prior to an order of liquidation, rehabilitation, or conservation, with respect to the covered policies of residents and subject to any conditions imposed by the Association other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the Commissioner:

- (a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, the insurer's covered policies of residents;
- (b) Provide such monies, pledges, notes, guarantees or other means as are proper to effectuate paragraph (a), and assure payment of the impaired insurer's contractual obligations to residents pending action under paragraph (a);
- (c) Loan money to the impaired insurer.

If the Association fails to act within a reasonable period of time, the Commissioner shall have the powers and duties of the Association under this Article with respect to such foreign or alien impaired insurer.

(3) If a domestic insurer is an impaired insurer under an order of liquidation or rehabilitation, the Association shall, subject to the approval of the Commissioner:

- (a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed or reinsured the covered policies of the impaired insurer;
- (b) Assure payment of the contractual obligations of the impaired insurer; and
- (c) Provide such monies, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

If the Association fails to act within a reasonable period of time, the Commissioner shall have the powers and duties of the Association under this Article with respect to such domestic impaired insurer.

(4) If a foreign or alien insurer is an impaired insurer under an order of liquidation, rehabilitation, or conservation, the Association shall, subject to the approval of the Commissioner:

- (a) Guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of residents;
- (b) Assure payment of the contractual obligations of the impaired insurer to residents; and
- (c) Provide such monies, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

If the Association fails to act within a reasonable period of time, the Commissioner shall have the powers and duties of the Association under this Article with respect to such foreign or alien impaired insurer.

(5) (a) In carrying out its duties under subsections (3) and (4), the Association may request that there be imposed policy liens, contract liens, moratoriums on payments or other

similar means and such liens, moratoriums, or similar means may be imposed if the Commissioner:

- (i) Finds that the amounts which can be assessed under this Article are less than the amounts needed to assure full and prompt performance of the impaired insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, moratoriums, or similar means to be in the public interest, and
 - (ii) Approves the specific policy liens, contract liens, moratoriums, or similar means to be used,
 - (b) Before being obligated under subsections (3) and (4) the Association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans and such temporary moratoriums and liens may be imposed if they are approved by the Commissioner.
- (6) The Association shall have no liability under this section for any covered policy of a foreign or alien insurer whose domiciliary jurisdiction or state of entry provides by statute or regulation, for residents of this State protection substantially similar to that provided by this Article for residents of other states.
- (7) The Association may render assistance and advice to the Commissioner, upon his request, concerning rehabilitation, payment of claims, continuations of coverage, or the performance of other contractual obligations of any impaired insurer.
- (8) The Association shall have standing to appear before any court in this State with jurisdiction over an impaired insurer concerning which the Association is or may become obligated under this Article. Such standing shall extend to all matters germane to the powers and duties of the Association, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired insurer and the determination of the covered policies and contractual obligations.
- (9) (a) Any person receiving benefits under this act shall be deemed to have assigned his rights under the covered policy to the Association to the extent of the benefits received because of this Article whether the benefits are payments of contractual obligations or continuation of coverage. The Association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insurer or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this Article upon such person. The Association shall be subrogated to these rights against the assets of any impaired insurer.
- (b) The subrogation rights of the Association under this subsection shall have the same priority against the assets of the impaired insurer as that possessed by the person entitled to receive benefits under this Article.
- (10) The contractual obligations of the impaired insurer for which the Association becomes or may become liable shall be as great as but no greater than the contractual obligations of the impaired insurer would have been in the absence of an impairment unless such obligations are reduced as permitted by subsection (5).
- (11) The Association may:
- (a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this Article.
 - (b) Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under G.S. 58-155.68 or to enforce any other obligations under the provisions of this Article.
 - (c) Borrow money to effect the purposes of this Article. Any notes or other evidence of indebtedness of the Association not in default shall be legal investments for domestic insurers and may be carried as admitted assets.

- (d) Employ or retain such persons as are necessary to handle the financial transactions of the Association, and to perform such other functions as become necessary or proper under this Article.
 - (e) Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the Association.
 - (f) Take such legal action as may be necessary to avoid payment of improper claims.
 - (g) Exercise, for the purposes of this Article and to the extent approved by the Commissioner, the powers of a domestic life or accident and health insurer, but in no case may the Association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired insurer.
- (12) In the event the Association fails to discharge any of its powers and duties within a reasonable time, the Commissioner shall have all the powers and duties of the Association and shall have the full power and duties of its board of directors.

"§ 58-155.68. Assessments. — (1) For the purpose of providing the funds necessary to carry out the powers and duties of the Association, the board of directors shall assess the member insurers, separately for each account, at such times and for such amounts as the board finds necessary. The board shall collect the assessments after 30 days' written notice to the member insurers before payment is due. In the event that the member insurers do not within the time prescribed pay the assessment set by the board, the Association may file suit against such member insurers jointly and severally for the amounts necessary to carry out the responsibilities of the Association as determined by the board of directors.

(2) There shall be three classes of assessments, as follows:

- (a) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses not related to a particular impaired insurer.
- (b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the Association under G.S. 58-155.67 with regard to an impaired domestic insurer.
- (c) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the Association under G.S. 58-155.67 with regard to an impaired foreign or alien insurer.

(3) (a) The amount of any Class A assessment for each account shall be determined by the board. The amount of any Class B or C assessment shall be divided among the accounts in the proportion that the premiums received by the impaired insurer on the policies covered by each account bears to the premiums received by such insurer on all covered policies.

- (b) Class A and Class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this State by each assessed member insurer on policies covered by each account bears to such premiums received on business in this State by all assessed member insurers.
- (c) Class B assessments for each account shall be made separately for each state in which the impaired domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired insurer on policies covered by such account bears to such premiums received in all such states by the impaired insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account bears to such premiums received on business in each state by all assessed member insurers.

(d) Assessments for funds to meet the requirements of the Association with respect to an impaired insurer shall not be made until necessary to implement the purposes of this Article. Classification of assessments under subsection (2) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that the exact determinations may not always be possible.

(4) The Association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed four percent (4%) of such insurer's premiums in this State on the policies covered by the account.

(5) In the event an assessment against a member insurer is abated, or deferred, in whole or in part, because of the limitations set forth in subsection (4), the amount by which such assessment is abated or deferred, shall be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the Association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the Association, the necessary additional funds shall be assessed as soon thereafter as permitted by this Article. In the event a member insurer or a former member insurer fails or refuses to pay an assessment, the amount of such assessment shall be assessed against the other member insurers in a manner consistent with the basis for assessment set forth in this section, pending the recovery of any such unpaid assessment in order that the purpose of this Article may be effected.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the Board finds is necessary to carry out during the coming year the obligations of the Association with regard to that amount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the Association and for future losses if refunds are impractical.

(7) The Association shall issue to each insurer paying an assessment under this Article a certificate of contribution, in a form prescribed by the Commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the Commissioner may approve.

(8) Any member insurer whose certificate of authority has been terminated for any reason whatever shall be liable for any assessment based on insolvencies occurring prior to such termination.

"§ 58-155.69. Plan of operation.— (1) (a) The Association shall submit to the Commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the Association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the Commissioner.

(b) If the Association fails to submit a suitable plan of operation within 90 days following the effective date of this Article or if at any time thereafter the Association fails to submit suitable amendments to the plan, the Commissioner shall, after notice and hearing, formulate, adopt, promulgate and place into effect such plan of operation, amendments thereto, and such reasonable rules as are necessary or advisable to effectuate the provisions of this Article. Such plan and rules shall continue in force until modified by the

Commissioner or superseded by a plan submitted by the Association and approved by the Commissioner.

(2) All member insurers shall comply with the plan of operation, and as a prerequisite to further engaging in writing such insurance in this State shall formally subscribe to and participate in the plan so approved.

(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this act:

- (a) Establish procedures for handling the assets of the Association.
- (b) Establish the amount and method of reimbursing members of the board of directors under G.S. 58-155.66.
- (c) Establish regular places and times for meetings of the board of directors.
- (d) Establish procedures for records to be kept of all financial transactions of the Association, its agents and the board of directors.
- (e) Establish the procedures whereby selections for the board of directors will be made and submitted to the Commissioner.
- (f) Establish any additional procedures for assessments under G.S. 58-155.68.
- (g) Contain additional provisions necessary or proper for the execution of the powers and duties of the Association.

(4) The plan of operation may provide that any or all powers and duties of the Association except those under G.S. 58-155.67(11)(c) and G.S. 58-155.68, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this Association, or its equivalent in two or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the Association and shall be paid for its performance of any function of the Association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the Commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this Article.

"§ 58-155.70. Duties and powers of the Commissioner. — In addition to the duties and powers enumerated elsewhere in this Article:

(1) the Commissioner shall:

- (a) Notify the board of directors of the existence of an impaired insurer not later than three days after a determination of impairment is made or he received notice of impairment.
- (b) Upon request of the board of directors, provide the Association with a statement of the premiums in the appropriate states for each member insurer.
- (c) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with such demand shall not excuse the Association from the performance of its powers and duties under this Article.
- (d) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the Commissioner shall be appointed conservator.

(2) The Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this State of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the

Commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars (\$100.00) per month.

(3) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this Article.

"§ 58-155.71. Prevention of impairments. — To aid in the detection and prevention of insurer impairments:

(1) The board of directors shall, upon majority vote, notify the Commissioner of any information indicating member insurer may be unable or potentially unable to fulfill its contractual obligations.

(2) The board of directors may, upon majority vote, request that the Commissioner order an examination of any member insurer which the board in good faith believes may be unable or potentially unable to fulfill its contractual obligations. The Commissioner may conduct such examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the Commissioner designates. The cost of such examination shall be paid by the Association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors of the Association prior to its release to the public, but this shall not excuse the Commissioner from his obligation to comply with subsection (3). The Commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the Commissioner but it shall not be open to public inspection prior to the release of the examination report to the public and shall be released at that time only if the examination discloses that the examined insurer is unable or potentially unable to meet its contractual obligations.

(3) The Commissioner shall report to the board of directors when he has reasonable cause to believe that any member insurer examined at the request of the board of directors may be unable or potentially unable to fulfill its contractual obligations.

(4) The board of directors may, upon majority vote, make reports and recommendations to the Commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer.

Such reports and recommendations shall not be considered public documents.

(5) The board of directors may, upon majority vote, make recommendations to the Commissioner for the detection and prevention of insurer impairments.

(6) The board of directors shall, at the conclusion of any insurer impairment in which the Association carried out its duties under this Article or exercised any of its powers under this Article, prepare a report on the history and causes of such impairment, based on the information available to the Association, and submit such report to the Commissioner.

"§ 58-155.72. Appointment of Association nominee. — The Association may recommend a natural person to serve as a special deputy to act for the Commissioner and under his supervision in the liquidation, rehabilitation, or conservation, of any member insurer.

"§ 58-155.73. Miscellaneous provisions. — (1) Nothing in this Article shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with assessment liability.

(2) Records shall be kept of all negotiations and meetings in which the Association or its representatives are involved to discuss the activities of the Association in carrying out its powers and duties under G.S. 58-155.67. Records of such negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired insurer, upon the termination of the impairment of the insurer, or 821 upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the Association to render a report of its activities under G.S. 58-155.74.

(3) For the purpose of carrying out its obligations under this Article, the Association shall be deemed to be a creditor of the impaired insurer to the extent of assets attributable to covered policies reduced by any amounts to which the Association is entitled as subrogee pursuant to G.S. 58-155.67(9), and any insured, beneficiary, or other person who has a valid claim against any impaired insurer shall likewise be deemed to be a creditor of the Association and its members, jointly and severally. All assets of the impaired insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired insurer as required by this Article. Assets attributable to covered policies, as used in this subsection, is that proportion of the assets which the reserves that should have been established for such policies bear to the reserve that should have been established for all policies of insurance written by the impaired insurer.

(4) (a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the Association, the shareholders and policy owners of the impaired insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such impaired insurer. In such a determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

(b) No distribution to stockholders, if any, of an impaired insurer shall be made until and unless the total amount of assessments levied by the Association with respect to such insurer has been fully recovered by the Association.

(5) It shall be a prohibited unfair trade practice for any person to make use in any manner of the protection afforded by this Article in the sale of insurance.

(6) (a) If an order for liquidation or rehabilitation of an insurer domiciled in this State has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of paragraphs (b) to (d).

(b) No such dividend shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(c) Any person who as an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, shall be liable up to the amount of distributions he would have received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired insurer to pay the contractual obligations of the impaired insurer.

(e) If any person liable under paragraph (c) is insolvent, all its affiliates that controlled it at the time the dividend was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

"§ 58-155.74. Examination of the Association; annual report. — The Association shall be subject to examination and regulation by the Commissioner. The board of directors shall submit to the Commissioner, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the Commissioner and a report of its activities during the preceding calendar year.

"§ 58-155.75. **Tax exemptions.** — The Association shall be exempt from payment of all fees and all taxes levied by this State or any of its subdivisions, except taxes levied on real property.

"§ 58-155.76. **Immunity.** — There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the Association or its agents or employees, members of the board of directors, or the Commissioner or his representatives, for any action taken by them in the performance of their powers and duties under this Article.

"§ 58-155.77. **Stay of proceedings; reopening default judgments.** — All proceedings in which the impaired insurer is a party in any court in this State shall be stayed 60 days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the Association on any matters germane to its powers or duties. As to a judgment under any decision, order, verdict, or findings based on default the Association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

"§ 58-155.78. **Hearings, review.** — (1) Any person aggrieved with respect to the operation of the Association may request a formal hearing and ruling by the board of directors on any alleged failure to comply with the plan of operation or any alleged improper act or ruling in the administration of the Association. The request for hearing must be made within 15 days after the date of the alleged violation or improper act or ruling. The hearing shall be held within 15 days after the receipt of the request. Except as may be otherwise provided by the board of directors the hearing shall be held by a panel appointed by the Chairman consisting of three board members entitled to vote. The ruling of a majority of the panel shall be deemed to be the formal action of the board unless the full board on its own motion shall modify or rescind the panel's action.

(2) Any formal action of the board may be appealed to the Commissioner by filing notice of appeal with the Association and Commissioner within 30 days after the date of the board's action. The Commissioner shall issue an order approving or disapproving the action or decision, or directing the board to reconsider the action.

(3) Any aggrieved person, any member insurer, or the Association may request a public hearing and ruling by the Commissioner on the provisions of the plan of operation, rules, or regulations approved by the Commissioner. The request for a hearing shall specify the matters to be considered. The hearing shall be held within 30 days after receipt of the request. The Commissioner shall give public notice of the hearing and the matters to be considered not less than 15 days in advance of the hearing date.

(4) In any hearing held pursuant to this Article the board of directors or the Commissioner, as the case may be, shall issue a ruling or order within 30 days after the close of the hearing.

(5) All rulings or orders of the Commissioner under this Article are subject to judicial review as provided in G.S. 58-9.3."

Sec. 2. Severability. If any provision or part of this Article or application thereof is held invalid, the invalidity shall not affect other provisions, parts or applications of the Article which can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

Sec. 3. This Article shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 13th day of April, 1974.