

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

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HOUSE BILL 2257  
Committee Substitute Favorable 7/11/90

Short Title: Ins. Dept. Fees/Prem. Tax Clarif.

(Public)

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Sponsors:

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Referred to:

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June 1, 1990

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE VARIOUS FEES AND CREATE NEW FEES CHARGED  
2 BY THE DEPARTMENT OF INSURANCE; TO AMEND THE RETALIATORY  
3 PREMIUM TAX LAW; TO CREATE, MAINTAIN, AND APPROPRIATE  
4 MONEY TO THE DEPARTMENT OF INSURANCE CONSUMER  
5 PROTECTION FUND; AND TO IMPROVE THE FINANCIAL STABILITY OF  
6 THE STATE PROPERTY FIRE INSURANCE FUND.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. The purpose of this act is to raise revenue for the State in order for  
10 the State and the Department of Insurance to accomplish the following:

11 (a) Generate a net revenue to the General Fund in an amount of approximately  
12 one million dollars for the ensuing fiscal years.

13 (b) Mitigate the adverse monetary effect on the State Property Fire Insurance  
14 Fund caused by the transfer of substantial amounts from that Fund to reimburse local  
15 governments for fire protection of State property.

16 (c) Eliminate the State's potential liability arising out of the case of The Aetna  
17 Casualty and Surety Company, et al, v. James E. Long, Commissioner of Insurance of  
18 the State of North Carolina, 90CV 04729, filed on April 26, 1990; provide for a  
19 premium tax credit over the next four fiscal years for the plaintiffs and other foreign  
20 insurance companies similarly situated; and cover the resulting loss of retaliatory  
21 premium tax revenue.

22 (d) Create a special fund in the office of the State Treasurer for the use of the  
23 Department of Insurance (1) for retaining experts and court reporters in handling

1 insurance ratemaking for the benefit of insurance consumers in this State; (2) for  
2 locating and recovering missing assets of and other amounts owed to insolvent insurers  
3 for the benefit of the policy owners of such insurers; and (3) for retaining legal counsel  
4 and court reporters in extraordinary civil actions commenced against the Commissioner  
5 of Insurance or his deputies that arise out of the performance of their official duties.

6 Sec. 2. G.S. 58-6-5 reads as rewritten:

7 **"§ 58-6-5. Schedule of fees and charges.**

8 The Commissioner of Insurance shall collect and pay into the State treasury fees and  
9 charges as follows:

10 (1) For filing and examining ~~statement preliminary to an insurance company~~  
11 application for admission, twenty dollars (\$20.00) a nonrefundable fee of  
12 two hundred fifty dollars (\$250.00), to be submitted with such filing;  
13 for filing and auditing annual statement, ten dollars (\$10.00) one  
14 hundred dollars (\$100.00); for filing any other papers required by law,  
15 one dollar (\$1.00) twenty-five dollars (\$25.00); for each certificate of  
16 examination, condition, or qualification of company or association, two  
17 dollars (\$2.00) fifteen dollars (\$15.00); for each seal when required,  
18 two dollars (\$2.00) ten dollars (\$10.00); for filing charter and other papers  
19 of a fraternal order, preliminary to admission, twenty-five dollars (\$25.00);  
20 for a list of licensed insurance companies, ten dollars (\$10.00).

21 (2) Repealed by Session Laws 1977, c. 376, s. 2.

22 (3) The Commissioner shall receive for copy of any record or paper in his  
23 office fifty cents (50¢) per copy sheet and ~~one dollar (\$1.00) ten dollars~~  
24 (\$10.00) for certifying same, or any fact or data from the records of his  
25 office; for examination of any foreign company, not less than forty  
26 dollars (\$40.00) per diem and all expenses or the fees as prescribed by  
27 the Examination Committee of the National Association of Insurance  
28 Commissioners, and for examining any domestic company, actual  
29 expenses incurred; for the examination and approval of charters of  
30 companies, five dollars (\$5.00) twenty-five dollars (\$25.00).  
31 Notwithstanding the provisions of G.S. 138-6, the Commissioner of  
32 Insurance is authorized to pay examiners an amount in lieu of traveling  
33 expenses equal to the rate charged to and collected from the  
34 companies, associations or orders. For the investigation of tax returns  
35 and the collection of any delinquent taxes disclosed by such  
36 investigation, the Commissioner may, in lieu of the above per diem  
37 charge, assess against any such delinquent company the expense of the  
38 investigation and collection of such delinquent tax, a reasonable  
39 percentage of such delinquent tax, not to exceed ten per centum (10%)  
40 of such delinquency, and in addition thereto.

41 (4) He shall collect all other fees and charges due and payable into the  
42 State treasury by any company, association, order, or individual under  
43 his Department.

1           (5) The Commissioner shall charge and insurers shall pay, as a  
2 prerequisite to receipt and review by the Commissioner of filings of  
3 policy forms or rates, a fee of twenty dollars (\$20.00) per policy form  
4 filed and submitted for approval; a fee of twenty dollars (\$20.00) for  
5 each property or casualty rate filing submitted; and a fee of twenty  
6 dollars (\$20.00) for each life, accident, or health rate filing submitted.  
7 Payment of the fee shall be made at the time the form or rate filing is  
8 submitted. All fees are nonrefundable. If an insurer fails to pay the  
9 proper fee at the time of submittal, the Commissioner shall not be  
10 required to review the form or rate filed until the insurer remits the  
11 proper fee; and any statutory time periods relating to the filing shall be  
12 tolled until the insurer remits the proper fee. As used in this  
13 subdivision, 'insurer' includes an entity subject to Articles 65 through  
14 67 of this Chapter; any rating organization, advisory organization, joint  
15 underwriting association, or joint reinsurance organization subject to  
16 Articles 1 through 64 of this Chapter; and the North Carolina Rate  
17 Bureau and the North Carolina Motor Vehicle Reinsurance Facility.  
18 As used in this subdivision, 'policy form' includes an application form,  
19 a declarations page, a policy jacket, a policy or contract of insurance,  
20 or an endorsement, rider, or any amendment to a policy form that has  
21 already been approved by the Commissioner; provided that an initial  
22 policy filing made by an insurer shall constitute one policy form."

23           Sec. 3. G.S. 58-6-15 reads as rewritten:

24 **"§ 58-6-15. Licenses run from July 1; pro-rata payment.**

25           The license required of insurance companies shall continue for the next ensuing 12  
26 months after July 1 of each year, unless revoked as provided in Articles 1 through 64 of  
27 this Chapter; ~~but the Commissioner of Insurance may, when the annual license tax exceeds~~  
28 ~~twenty five dollars (\$25.00), receive from applicants after July 1 so much of the license fee~~  
29 ~~required by law as may be due pro rata for the remainder of the year, beginning with the first~~  
30 ~~day of the current month. Application for renewal of the company license must be~~  
31 ~~submitted on or before the first day of March on a form to be supplied by the~~  
32 ~~Commissioner of Insurance. Upon satisfying himself that the company has met all~~  
33 ~~requirements of law and appears to be financially solvent he shall forward the renewal~~  
34 ~~license to the company. Any company which does not qualify for a renewal license~~  
35 ~~before July 1 shall cease to do business in the State of North Carolina as of July 1,~~  
36 ~~unless its license is sooner revoked by the Commissioner.~~

37 ~~Before issuing any license for the year, beginning July 1, 1955, the Commissioner~~  
38 ~~shall collect, in addition to the annual license fee, a pro-rata fee for the three months of~~  
39 ~~April, May and June, 1955, collection of which fee shall extend licenses expiring April~~  
40 ~~1, 1955, until July 1, 1955, if accepted by the Commissioner of Insurance.~~

41           Nothing contained in this section shall be interpreted as applying to licenses issued to  
42 individual representatives of insurance companies."

43           Sec. 4. G.S. 105-228.4(a) reads as rewritten:

44 **"§ 105-228.4. Annual registration fees for insurance companies.**

(a) Each ~~and every~~ insurance company shall, as a condition precedent for doing business in this State, on or before the first day of March of each year apply for and obtain from the Commissioner of Insurance a certificate of registration, or license, effective the first day of July, and shall pay for such certificate the following annual fees except as hereinafter provided in subsections (b) and (c):

For each domestic farmer's mutual assessment fire insurance company or association, and each branch thereof	<del>\$10.00</del> <u>\$25.00</u>
For each fraternal order	<del>25.00</del> <u>100.00</u>
For each of all other insurance companies, except mutual burial associations taxed under G.S. 105-121.1	<del>300.00</del> <u>500.00</u>

The fees levied above shall be in addition to those specified in G.S. 58-6-5." Sec. 5. G.S. 58-65-55 reads as rewritten:

**"§ 58-65-55. Issuance of certificate.**

Before issuing any such license or certificate the Commissioner ~~of Insurance~~ may make such an examination or investigation as he deems expedient. The Commissioner ~~of Insurance~~ shall issue a certificate of authority or license upon the payment of an annual fee of ~~one hundred dollars (\$100.00)~~ five hundred dollars (\$500.00) and upon being satisfied on the following points:

- (1) The applicant is established as a bona fide nonprofit hospital service corporation as defined by this Article and Article 66 of this Chapter.
- (2) The rates charged and benefits to be provided are fair and reasonable.
- (3) The amounts provided as working capital of the corporation are repayable only out of earned income in excess of amounts paid and payable for operating expenses and hospital and medical and/or dental expenses and such reserve as the Department ~~of Insurance~~ deems adequate, as provided hereinafter.
- (4) That the amount of money actually available for working capital be sufficient to carry all acquisition costs and operating expenses for a reasonable period of time from the date of the issuance of the certificate."

Sec. 6. G.S. 58-67-160 reads as rewritten:

**"§ 58-67-160. Fees.**

Every health maintenance organization subject to this Article shall pay to the Commissioner the following fees:

- (1) For filing an application for a certificate of authority, two hundred fifty dollars (\$250.00); or amendment thereto for each renewal thereof, twenty dollars (\$20.00) five hundred dollars (\$500.00);
- (2) For filing each annual report, ~~ten dollars (\$10.00)~~ one hundred dollars (\$100.00)."

Sec. 7. G.S. 58-35-5(e) reads as rewritten:

"(e) There shall be two types of licenses issued to an insurance premium finance company:

- 1 (1) An 'A' type license shall be issued to insurance premium finance  
 2 companies whose business of insurance premium financing is limited  
 3 to the financing of insurance premiums of one insurance agent or  
 4 agency and whose primary function is to finance only the insurance  
 5 premium of such agent or agency. The license fee for an 'A' type  
 6 license shall be ~~two hundred dollars (\$200.00)~~ three hundred dollars  
 7 (\$300.00) for each license year or part thereof.
- 8 (2) A 'B' type license shall be issued to an insurance premium finance  
 9 company whose business of insurance premium financing is not  
 10 limited to the financing of insurance premiums of one insurance agent  
 11 or agency and whose primary function is to finance the insurance  
 12 premiums of more than one insurance agent or agency. The license fee  
 13 for a 'B' type license shall be ~~nine hundred fifty dollars (\$950.00)~~ one  
 14 thousand two hundred dollars (\$1,200) for each license year or part  
 15 thereof.

16 A branch office license may be issued for either an 'A' type or 'B' type license. The  
 17 fee for the branch office license shall be fifty dollars (\$50.00) for each license year or  
 18 part thereof. The examination fee when required by this section shall be ~~one hundred~~  
 19 ~~dollars (\$100.00)~~ two hundred fifty dollars (\$250.00) per application."

20 Sec. 8. G.S. 58-9-5 is amended by adding a new subdivision to read:

21 "(5) Application fee.—The copies of the plan of exchange filed in  
 22 accordance with subdivision (2) of this section shall be accompanied  
 23 by a nonrefundable fee of two hundred fifty dollars (\$250.00)."

24 Sec. 9. Article 7 of Chapter 58 of the General Statutes is amended by adding  
 25 a new section to read:

26 "**§ 58-7-155. Application fee.**

27 Every application for redomestication under G.S. 58-7-60 and G.S. 58-7-65 shall be  
 28 accompanied by a nonrefundable fee of two hundred dollars (\$200.00)."

29 Sec. 10. G.S. 58-7-150 is amended by adding a new subsection to read:

30 "(c) An application for merger or consolidation under this section shall be  
 31 accompanied by a nonrefundable fee of two hundred fifty dollars (\$250.00)."

32 Sec. 11. Article 18 of Chapter 58 of the General Statutes is amended by  
 33 adding a new section to read:

34 "**§ 58-18-25. Application fee.**

35 An application for a certificate of authority under this Article shall be accompanied  
 36 by a nonrefundable fee of fifty dollars (\$50.00)."

37 Sec. 12. Article 22 of Chapter 58 of the General Statutes is amended by  
 38 adding a new section to read:

39 "**§ 58-22-70. Registration and renewal fees.**

40 Every risk retention group and purchasing group that registers with the  
 41 Commissioner under this Article shall pay the following fees:

42 <u>Risk retention group registration</u>	<u>\$250.00</u>
43 <u>Purchasing group registration</u>	<u>50.00</u>
44 <u>Risk retention group renewal</u>	<u>500.00</u>

1 Purchasing group renewal 50.00

2 Registration fees are nonrefundable, shall not be prorated, and must be submitted  
 3 with the application for registration. Renewal fees are nonrefundable, shall not be  
 4 prorated, and shall be paid on or before January 1 of each year."

5 Sec. 13. G.S. 58-21-20 is amended by adding a new subsection to read:

6 "(c) Every surplus lines insurer that applies for eligibility under this section shall  
 7 pay a nonrefundable fee of two hundred fifty dollars (\$250.00). In order to renew  
 8 eligibility, such insurer shall pay a nonrefundable renewal fee of five hundred dollars  
 9 (\$500.00) on or before January 1 of each year thereafter. Such fees shall not be  
 10 prorated."

11 Sec. 14. G.S. 58-33-125 reads as rewritten:

12 **"§ 58-33-125. Fees.**

13 (a) The following table indicates the annual fees that are required for the  
 14 respective licenses and appointments issued, renewed, or cancelled under this Article  
 15 and Article 21 of this Chapter:

16 Adjuster	<del>\$50.00</del> <u>\$75.00</u>		
17 Adjuster, crop hail only		10.00	<u>20.00</u>
18 Agent appointment cancellation (paid by insurer)		5.00	<u>10.00</u>
19 Agent appointment, individual		10.00	<u>20.00</u>
20 Agent appointment, nonindividual		25.00	<u>50.00</u>
21 Agent, overseas military		10.00	<u>20.00</u>
22 Broker, nonresident		50.00	<u>100.00</u>
23 Broker, resident		<del>25.00</del>	<u>50.00</u>
24 Limited representative		<del>10.00</del>	<u>20.00</u>
25 Limited representative cancellation (paid by			
26 insurer)	<del>5.00</del> <u>10.00</u>		
27 Motor vehicle damage appraiser		50.00	<u>75.00</u>
28 <u>Recertification, continuing education</u>		<u>5.00</u>	
29 Surplus lines licensee, corporate		50.00	
30 Surplus lines licensee, individual		50.00	

31 These fees are in lieu of any other license fees. Fees paid by an insurer on behalf of  
 32 a person who is licensed or appointed to represent the insurer shall be paid to the  
 33 Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner.  
 34 The recertification fee in this subsection shall be paid by persons subject to G.S. 58-33-  
 35 130 at the time they renew their licenses or appointments under G.S. 58-33-130(c).

36 (b) Whenever a temporary license may be issued pursuant to this Article, the fee  
 37 shall be at the same rate as provided in subsection (a) of this section; and any amounts  
 38 so paid for a temporary license may be credited against the fee required for an  
 39 appointment by the sponsoring company.

40 (c) Any person not registered who is required by law or administrative rule to  
 41 secure a license shall, upon application for registration, pay to the Commissioner a fee  
 42 of ~~ten dollars (\$10.00)~~ thirty dollars (\$30.00). In the event additional licensing for other  
 43 kinds of insurance is requested, a fee of ~~ten dollars (\$10.00)~~ twenty dollars (\$20.00) shall

1 be paid to the Commissioner upon application for registration for each additional kind  
2 of insurance.

3 (d) The requirement for an examination or a registration fee does not apply to  
4 agents for domestic farmers' mutual assessment fire insurance companies or  
5 associations specified in G.S. 105-228.4.

6 (e) In the event a license issued under this Article is lost, stolen, or destroyed, the  
7 Commissioner may issue a duplicate license upon a written request from the licensee  
8 and payment of a fee of ~~one dollar (\$1.00)~~ five dollars (\$5.00).

9 (f) Whenever a printed record of an agent's file is requested, the fee shall be ten  
10 dollars (\$10.00) for each copy whether or not the agent is currently licensed, previously  
11 licensed, or no record of that agent exists.

12 (g) All fees prescribed by this section are nonrefundable."

13 Sec. 15. Article 30 of Chapter 58 of the General Statutes is amended by  
14 adding a new section to read:

15 **"§ 58-30-310. Exemption from filing fees.**

16 As used in this section, 'Commissioner' includes the Commissioner's deputies,  
17 employees, or attorneys of record. The Commissioner is not required to pay any fee to  
18 any public officer in this State for filing, recording, issuing a transcript or certificate, or  
19 authenticating any paper or instrument pertaining to the exercise by the Commissioner  
20 of any of the powers or duties conferred upon him under this Article. This section  
21 applies whether or not the paper or instrument is connected with the commencement of  
22 an action or proceeding by or against the Commissioner or with the subsequent conduct  
23 of an action or proceeding."

24 Sec. 16. G.S. 58-36-35 reads as rewritten:

25 **"§ 58-36-35. Appeal to Commissioner from decision of Bureau.**

26 Any member of the Bureau may appeal to the Commissioner from any decision of  
27 the Bureau. After a hearing held on not less than 10 days' written notice to the appellant  
28 and to the Bureau, the Commissioner shall issue an order approving the decision or  
29 directing the Bureau to reconsider the decision. In the event the Commissioner directs  
30 the Bureau to reconsider the decision and the Bureau fails to take action satisfactory to  
31 the Commissioner, the Commissioner shall make such order as he may see fit.

32 No later than 20 days before each hearing, the appellant shall file with the  
33 Commissioner or his designated hearing officer and shall serve on the appellee a written  
34 statement of his case and any evidence he intends to offer at the hearing. No later than  
35 five days before such hearing, the appellee shall file with the Commissioner or his  
36 designated hearing officer and shall serve on the appellant a written statement of his  
37 case and any evidence he intends to offer at the hearing. Each such hearing shall be  
38 recorded and transcribed. The cost of such recording and transcribing shall be borne  
39 equally by the appellant and appellee; provided that upon any final adjudication the  
40 prevailing party shall be reimbursed for his share of such costs by the other party. Each  
41 party shall, on a date determined by the Commissioner or his designated hearing officer,  
42 but not sooner than 15 days after delivery of the completed transcript to the party,  
43 submit to the Commissioner or his designated hearing officer and serve on the other

1 party, a proposed order. The Commissioner or his designated hearing officer shall then  
2 issue an order."

3 Sec. 17. G.S. 58-37-65(c) reads as rewritten:

4 "(c) The Commissioner shall, after a hearing held on not less than 30 days written  
5 notice to the appellant and to the Board, (i) issue an order approving the decision of the  
6 Board or (ii) after setting out the findings and conclusions as to how the action of the  
7 Board is not in accordance with the Plan of Operation, the Standard Practice Manual, or  
8 other provisions of this Article, direct the Board to reconsider its decision. In the event  
9 the Commissioner directs the Board to reconsider its decision and the Board fails to take  
10 action in accordance with the Plan of Operation, the Standard Practice Manual, or other  
11 provisions of this Article, the Commissioner may issue an order modifying the action of  
12 the Board to the extent necessary to comply with the Plan of Operation, the Standard  
13 Practice Manual, or other provisions of this Article.

14 No later than 20 days before each hearing, the appellant shall file with the  
15 Commissioner or his designated hearing officer and shall serve on the appellee a written  
16 statement of his case and any evidence he intends to offer at the hearing. No later than  
17 five days before such hearing, the appellee shall file with the Commissioner or his  
18 designated hearing officer and shall serve on the appellant a written statement of his  
19 case and any evidence he intends to offer at the hearing. Each such hearing shall be  
20 recorded and transcribed. The cost of such recording and transcribing shall be borne  
21 equally by the appellant and appellee; provided that upon any final adjudication the  
22 prevailing party shall be reimbursed for his share of such costs by the other party. Each  
23 party shall, on a date determined by the Commissioner or his designated hearing officer,  
24 but not sooner than 15 days after delivery of the completed transcript to the party,  
25 submit to the Commissioner or his designated hearing officer and serve on the other  
26 party, a proposed order. The Commissioner or his designated hearing officer shall then  
27 issue an order."

28 Sec. 18. G.S. 58-45-50 reads as rewritten:

29 **"§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from**  
30 **Commissioner to superior court.**

31 Any person or any insurer who may be aggrieved by an act, ruling or decision of the  
32 Association other than an act, ruling or decision relating to the cause or amount of a  
33 claimed loss, may, within 30 days after such ruling appeal to the Commissioner. Any  
34 hearings held by the Commissioner of Insurance pursuant to such an appeal shall be in  
35 accordance with the procedure set forth in G.S. 58-2-50: Provided, however, the  
36 Commissioner of Insurance is authorized to appoint a member of his staff as deputy  
37 commissioner for the purpose of hearing such appeals and a ruling based upon such  
38 hearing shall have the same effect as if heard by the Commissioner. All persons or  
39 insureds aggrieved by any order or decision of the Commissioner of Insurance may  
40 appeal as is provided by the provisions of G.S. 58-2-75.

41 No later than 20 days before each hearing, the appellant shall file with the  
42 Commissioner or his designated hearing officer and shall serve on the appellee a written  
43 statement of his case and any evidence he intends to offer at the hearing. No later than  
44 five days before such hearing, the appellee shall file with the Commissioner or his



1 designated hearing officer and shall serve on the appellant a written statement of his  
2 case and any evidence he intends to offer at the hearing. Each such hearing shall be  
3 recorded and transcribed. The cost of such recording and transcribing shall be borne  
4 equally by the appellant and appellee; provided that upon any final adjudication the  
5 prevailing party shall be reimbursed for his share of such costs by the other party. Each  
6 party shall, on a date determined by the Commissioner or his designated hearing officer,  
7 but not sooner than 15 days after delivery of the completed transcript to the party,  
8 submit to the Commissioner or his designated hearing officer and serve on the other  
9 party, a proposed order. The Commissioner or his designated hearing officer shall then  
10 issue an order."

11 Sec. 19. G.S. 58-46-30 reads as rewritten:

12 **"§ 58-46-30. Appeals; judicial review.**

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

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

42 Sec. 20. G.S. 58-2-25 reads as rewritten:

43 **"§ 58-2-25. Other deputies, actuaries, examiners and employees.**

1 The Commissioner shall appoint or employ such other deputies, actuaries,  
2 economists, examiners, licensed attorneys, rate and policy analysts, accountants, fire  
3 and rescue training instructors, market conduct analysts, insurance complaint analysts,  
4 investigators, engineers, building inspectors, risk managers, clerks and other employees  
5 as may be found necessary for the proper execution of the work of the Department, at  
6 such compensation as shall be fixed and provided by the Department of Administration.  
7 If the Commissioner finds it necessary for the proper execution of the work of the  
8 Insurance Department to contract with persons, except to fill authorized employee  
9 positions, all those contracts, except those provided for in Articles 36 and 37 of this  
10 Chapter, shall be made pursuant to the provisions of Article 3C of Chapter 143.

11 Whenever the Commissioner or any deputy or employee of the Department is  
12 requested or subpoenaed to testify as an expert witness in any civil or administrative  
13 action, the party making the request or filing the subpoena and on whose behalf the  
14 testimony is given shall, upon receiving a statement of the cost from the Commissioner,  
15 reimburse the Department for the actual time and expenses incurred by the Department  
16 in connection with the testimony."

17 Sec. 21. G.S. 105-228.8(e) reads as rewritten:

18 "(e) This section shall not apply to special purpose obligations or assessments  
19 based on premiums imposed in connection with particular kinds of insurance, or to  
20 dedicated special purpose taxes based on premiums. For purposes of this section,  
21 seventy-five percent (75%) of the one and thirty-three hundredths percent (1.33%) tax  
22 on amounts collected on contracts of insurance applicable to fire and lightning coverage  
23 shall not be a special purpose obligation or assessment or a dedicated special purpose  
24 tax within the meaning of this subsection."

25 Sec. 22. Article 2 of Chapter 58 of the General Statutes is amended by  
26 adding a new section to read:

27 **§ 58-2-215. Consumer Protection Fund.**

28 (a) A special fund is created in the Office of the State Treasurer, to be known as  
29 the Department of Insurance Consumer Protection Fund. The Fund shall be placed in  
30 an interest bearing account and any interest or other income derived from the Fund shall  
31 be credited to the Fund. Moneys in the Fund shall only be spent pursuant to warrants  
32 drawn by the Commissioner on the Fund through the State Treasurer. The Fund shall be  
33 subject to the provisions of the Executive Budget Act; except that the provisions of  
34 Article 3C of Chapter 143 of the General Statutes do not apply to subdivision (b)(1) of  
35 this section.

36 (b) All moneys credited to the Fund shall be used only to pay the following  
37 expenses incurred by the Department:

38 (1) For the purpose of retaining outside actuarial and economic  
39 consultants, legal counsel, and court reporting services in the review  
40 and analysis of rate filings, in conducting all hearings, and through any  
41 final adjudication.

42 (2) In connection with any delinquency proceeding under Article 30 of  
43 this Chapter, for the purpose of locating and recovering the assets of or

1                    any other obligations or liabilities owed to or due an insurer that has  
2                    been placed under such proceeding.

3            (3)        In connection with any civil litigation, other than under Chapter 150B  
4                    of the General Statutes or any appeal from an order of the  
5                    Commissioner or his deputies, that is commenced against the  
6                    Commissioner or his deputies and that arises out of the performance of  
7                    their official duties, for the purpose of retaining outside consultants,  
8                    legal counsel, and court reporting services to defend such litigation.

9            (c)        Monies appropriated by the General Assembly shall be deposited in the Fund  
10                   and shall become a part of the continuation budget of the Department of Insurance.  
11                   Such continuation budget amount shall equal the actual expenditures drawn from the  
12                   Fund during the prior fiscal year plus the official inflation rate designated by the  
13                   Director of the Budget in the preparation of the State Budget for each ensuing fiscal  
14                   year; provided that if interest income on the Fund exceeds the amount yielded by the  
15                   application of the official inflation rate, such continuation budget amount shall be the  
16                   actual expenditures drawn from the Fund. In the event the amount in the Fund exceeds  
17                   one million dollars (\$1,000,000) at the end of any fiscal year, such excess shall revert to  
18                   the General Fund.

19            (d)        In no event shall more than fifty percent (50%) of the amount in the Fund be  
20                   allocated or spent for any one purpose specified in subsection (b) of this section in any  
21                   fiscal year."

22                   Sec. 23. G.S. 58-36-70(c) reads as rewritten:

23                   "(c)        Once begun, hearings must proceed without undue delay. At the  
24                   hearing the burden of proving that the proposed rates are not excessive, inadequate, or  
25                   unfairly discriminatory is on the Bureau. The Commissioner may disregard at the  
26                   hearing any exhibits, judgments, or conclusions offered as evidence by the Bureau that  
27                   were developed by or available to or could reasonably have been obtained or developed  
28                   by the Bureau at or before the time the Bureau made its proper filing and which  
29                   exhibits, judgments, or conclusions were not included and supported in the filing; unless  
30                   the evidence is offered in response to inquiries made at the hearing by the Department,  
31                   the notice of hearing, or as rebuttal to the Department's evidence. If relevant data  
32                   becomes available after the filing has been properly made, the Commissioner may  
33                   consider such data as evidence in the hearing. The order of presenting evidence shall be  
34                   (1) by the Bureau; (2) by the Department; (3) any rebuttal evidence by the Bureau  
35                   regarding the Department's evidence; and (4) any rebuttal evidence by the Department  
36                   regarding the Bureau's rebuttal evidence. Neither the Bureau nor the Department shall  
37                   present repetitious testimony or evidence relating to the same issues. ~~The Bureau shall~~  
38                   ~~reimburse the Department for all reasonable costs incurred by the Department in retaining~~  
39                   ~~outside actuarial, economic, and legal consultants or counsel, and court reporting services, for~~  
40                   ~~the review of rate filings, in conducting hearings, and up to the time the Commissioner issues~~  
41                   ~~an order approving or disapproving the filing."~~

42                   Sec. 24. There is appropriated from the General Fund to the Department of  
43                   Insurance Consumer Protection Fund in the Office of the State Treasurer for fiscal year

1 1990-1991 the sum of one million dollars (\$1,000,000) for the purposes specified in  
2 G.S. 58-2-215(b).

3 Sec. 25. G.S. 58-31-30 reads as rewritten:

4 **"§ 58-31-30. Transfer from fund for local fire protection.**

5 Of the funds available in the cash balance of the State Property Fire Insurance Fund  
6 and in addition to the money transferred pursuant to G.S. 143-3.6, the sum of ~~one million~~  
7 ~~four hundred fifty thousand dollars (\$1,450,000) five hundred thousand dollars (\$500,000)~~  
8 shall be transferred annually beginning in 1983-84-1990-91 to the Office of State Budget  
9 and Management for compensating political subdivisions of the State for providing  
10 local fire protection on State-owned buildings and their contents, provided, however  
11 that beginning with the 1984-85-1991-92 fiscal year if the State Treasurer makes a  
12 written finding to the Director of the Budget that the transfer for the 1984-85-1991-92  
13 fiscal year (or appropriate succeeding years) would cause financial instability in the  
14 State Property Fire Insurance Fund, then with the approval of the Director of the  
15 Budget, funds from the general fund shall supplement funds from the State Property  
16 Fire Insurance Fund that the State Treasurer certifies are available without causing  
17 financial instability so that the total State aid to local subdivisions under this section will  
18 remain at ~~one million four hundred fifty thousand dollars (\$1,450,000) five hundred~~  
19 ~~thousand dollars (\$500,000)~~ for each fiscal year. The Office of State Budget and  
20 Management shall develop an equitable and uniform statewide method for distributing  
21 these funds to the State's political subdivisions. Prior to taking any action under this  
22 section, the Director of the Budget may consult with the Advisory Budget Commission.  
23 This section shall expire at the end of the 1993-94 fiscal year."

24 Sec. 26. Article 1 of Chapter 143 of the General Statutes is amended by  
25 adding a new section to read:

26 **"§ 143-3.6. Transfer from General Fund for local fire protection.**

27 The sum of nine hundred fifty thousand dollars (\$950,000) shall be transferred  
28 annually, beginning with the 1990-91 fiscal year, from the General Fund to the Office of  
29 State Budget and Management for the purpose of compensating political subdivision of  
30 the State for providing local fire protection to State-owned buildings and their contents.  
31 The Office of State Budget and Management shall develop an equitable and uniform  
32 statewide method for distributing these funds to the State's political subdivisions."

33 Sec. 27. Section 21 of this act is effective for taxable years beginning on and  
34 after January 1, 1987.

35 Sec. 28. Section 23 of this act does not apply to the 1990 automobile rate  
36 filing made pursuant to Article 36 of Chapter 58 of the General Statutes. In the event  
37 the appropriations, allocations, transfers, and other funding provided for in this act are  
38 not made in accordance with this act, this act shall expire.

39 Sec. 29. This act is effective upon ratification.