

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2257
Committee Substitute Favorable 7/11/90
Committee Substitute #2 Favorable 7/12/90
Fourth Edition Engrossed 7/18/90

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

(Public)

Sponsors:

Referred to:

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
12 approximately 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.

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

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

9 **"§ 58-6-5. Schedule of fees and charges.**

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

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

23 (2) Repealed by Session Laws 1977, c. 376, s. 2.

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

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

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

27 **"§ 58-6-15. Licenses run from July 1; pro rata payment.**

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

40 ~~Before issuing any license for the year, beginning July 1, 1955, the Commissioner~~
 41 ~~shall collect, in addition to the annual license fee, a pro rata fee for the three months of~~
 42 ~~April, May and June, 1955, collection of which fee shall extend licenses expiring April~~
 43 ~~1, 1955, until July 1, 1955, if accepted by the Commissioner of Insurance.~~

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

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

4 **"§ 105-228.4. Annual registration fees for insurance companies.**

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

10 For each domestic farmer's mutual assessment fire	
11 insurance company or association, and each branch	
12 thereof	\$10.00- <u>\$25.00</u>
13 For each fraternal order	<u>25.00-100.00</u>
14 For each of all other insurance companies, except	
15 mutual burial associations taxed under G.S.	
16 105-121.1 300.00-500.00	

17 The fees levied above shall be in addition to those specified in G.S. 58-6-5."

18 Sec. 5. G.S. 58-65-55 reads as rewritten:

19 **"§ 58-65-55. Issuance of certificate.**

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

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

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

38 **"§ 58-67-160. Fees.**

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

- 41 (1) For filing an application for a certificate of authority, two hundred fifty
- 42 dollars (\$250.00); or amendment thereto for each renewal thereof, twenty
- 43 dollars (\$20.00) ~~five hundred dollars (\$500.00);~~

1 (2) For filing each annual report, ~~ten dollars (\$10.00)~~ one hundred dollars
2 (\$100.00)."

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

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

6 (1) An 'A' type license shall be issued to insurance premium finance
7 companies whose business of insurance premium financing is limited
8 to the financing of insurance premiums of one insurance agent or
9 agency and whose primary function is to finance only the insurance
10 premium of such agent or agency. The license fee for an 'A' type
11 license shall be ~~two hundred dollars (\$200.00)~~ three hundred dollars
12 (\$300.00) for each license year or part thereof.

13 (2) A 'B' type license shall be issued to an insurance premium finance
14 company whose business of insurance premium financing is not
15 limited to the financing of insurance premiums of one insurance agent
16 or agency and whose primary function is to finance the insurance
17 premiums of more than one insurance agent or agency. The license fee
18 for a 'B' type license shall be ~~nine hundred fifty dollars (\$950.00)~~ one
19 thousand two hundred dollars (\$1,200) for each license year or part
20 thereof.

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

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

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

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

31 "**§ 58-7-155. Application fee.**

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

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

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

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

39 "**§ 58-18-25. Application fee.**

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

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

44 "**§ 58-22-70. Registration and renewal fees.**

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

3	<u>Risk retention group registration</u>	<u>\$250.00</u>
4	<u>Purchasing group registration</u>	<u>50.00</u>
5	<u>Risk retention group renewal</u>	<u>500.00</u>
6	<u>Purchasing group renewal</u>	<u>50.00</u>

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

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

11 "(c) Every surplus lines insurer that applies for eligibility under this section shall
 12 pay a nonrefundable fee of two hundred fifty dollars (\$250.00). In order to renew
 13 eligibility, such insurer shall pay a nonrefundable renewal fee of five hundred dollars
 14 (\$500.00) on or before January 1 of each year thereafter. Such fees shall not be
 15 prorated."

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

17 "**§ 58-33-125. Fees.**

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

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

36 These fees are in lieu of any other license fees. Fees paid by an insurer on behalf of
 37 a person who is licensed or appointed to represent the insurer shall be paid to the
 38 Commissioner on a quarterly or monthly basis, in the discretion of the Commissioner.
 39 The recertification fee in this subsection shall be paid by persons subject to G.S. 58-33-
 40 130 at the time they renew their licenses or appointments under G.S. 58-33-130(c).

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

1 (c) Any person not registered who is required by law or administrative rule to
2 secure a license shall, upon application for registration, pay to the Commissioner a fee
3 of ~~ten dollars (\$10.00)~~ thirty dollars (\$30.00). In the event additional licensing for other
4 kinds of insurance is requested, a fee of ~~ten dollars (\$10.00)~~ twenty dollars (\$20.00) shall
5 be paid to the Commissioner upon application for registration for each additional kind
6 of insurance.

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

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

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

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

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

19 **"§ 58-30-310. Exemption from filing fees.**

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

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

29 **"§ 58-36-35. Appeal to Commissioner from decision of Bureau.**

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

36 No later than 20 days before each hearing, the appellant shall file with the
37 Commissioner or his designated hearing officer and shall serve on the appellee a written
38 statement of his case and any evidence he intends to offer at the hearing. No later than
39 five days before such hearing, the appellee shall file with the Commissioner or his
40 designated hearing officer and shall serve on the appellant a written statement of his
41 case and any evidence he intends to offer at the hearing. Each such hearing shall be
42 recorded and transcribed. The cost of such recording and transcribing shall be borne
43 equally by the appellant and appellee; provided that upon any final adjudication the
44 prevailing party shall be reimbursed for his share of such costs by the other party. Each

1 party shall, on a date determined by the Commissioner or his designated hearing officer,
2 but not sooner than 15 days after delivery of the completed transcript to the party,
3 submit to the Commissioner or his designated hearing officer and serve on the other
4 party, a proposed order. The Commissioner or his designated hearing officer shall then
5 issue an order."

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

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

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

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

32 "**§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from**
33 **Commissioner to superior court.**

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

1 No later than 20 days before each hearing, the appellant shall file with the
2 Commissioner or his designated hearing officer and shall serve on the appellee a written
3 statement of his case and any evidence he intends to offer at the hearing. No later than
4 five days before such hearing, the appellee shall file with the Commissioner or his
5 designated hearing officer and shall serve on the appellant a written statement of his
6 case and any evidence he intends to offer at the hearing. Each such hearing shall be
7 recorded and transcribed. The cost of such recording and transcribing shall be borne
8 equally by the appellant and appellee; provided that upon any final adjudication the
9 prevailing party shall be reimbursed for his share of such costs by the other party. Each
10 party shall, on a date determined by the Commissioner or his designated hearing officer,
11 but not sooner than 15 days after delivery of the completed transcript to the party,
12 submit to the Commissioner or his designated hearing officer and serve on the other
13 party, a proposed order. The Commissioner or his designated hearing officer shall then
14 issue an order."

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

16 **"§ 58-46-30. Appeals; judicial review.**

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

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

4 **"§ 58-2-25. Other deputies, actuaries, examiners and employees.**

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

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

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

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

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

31 **"§ 58-2-215. Consumer Protection Fund.**

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

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

42 (1) For the purpose of retaining outside actuarial and economic
43 consultants, legal counsel, and court reporting services in the review

1 and analysis of rate filings, in conducting all hearings, and through any
2 final adjudication.

3 (2) In connection with any delinquency proceeding under Article 30 of
4 this Chapter, for the purpose of locating and recovering the assets of or
5 any other obligations or liabilities owed to or due an insurer that has
6 been placed under such proceeding.

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

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

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

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

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

1 ~~the review of rate filings, in conducting hearings, and up to the time the Commissioner issues~~
2 ~~an order approving or disapproving the filing."~~

3 Sec. 24. There is appropriated from the General Fund to the Department of
4 Insurance Consumer Protection Fund in the Office of the State Treasurer for fiscal year
5 1990-91 the sum of one million dollars (\$1,000,000) for the purposes specified in G.S.
6 58-2-215(b).

7 Sec. 25. For purposes of G.S. 58-31-30 and G.S. 143-3.6, fire districts shall
8 be considered political subdivisions.

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

11 **"§ 143-3.6. Transfer from General Fund for State property protection.**

12 The sum of nine hundred fifty thousand dollars (\$950,000) shall be transferred
13 annually, beginning with the 1990-91 fiscal year, from the General Fund to the State
14 Property Fire Insurance Fund for the purpose specified in G.S. 58-31-1."

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

17 Sec. 28. Section 23 of this act does not apply to the 1990 automobile rate
18 filing made pursuant to Article 36 of Chapter 58 of the General Statutes. If the General
19 Assembly does not appropriate or transfer funds in accordance with Sections 1, 22, or
20 26 of this act for a fiscal year, Sections 1 through 14 and Sections 23 through 26 of this
21 act shall expire on the day after the General Assembly adjourns without making the
22 appropriations or transfers.

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