

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 512
Insurance Committee Substitute Adopted 5/8/89
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Short Title: Insurance Omnibus Amendments.

(Public)

Sponsors:

Referred to:

March 20, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS SUBSTANTIVE AND TECHNICAL CHANGES IN
3 THE INSURANCE LAWS.

4 The General Assembly of North Carolina enacts:

- 5 Section 1. G.S. 113-28.3 is repealed.
- 6 Sec. 2. G.S. 58-340.38(a) reads as rewritten:
- 7 "(a) Nothing contained in this Article shall be so construed as to affect or apply to:
- 8 (1) Grand or subordinate lodges of societies, orders or associations now
- 9 doing business in this State which provide benefits exclusively through
- 10 local or subordinate lodges;
- 11 (2) Orders, societies or associations which admit to membership only
- 12 persons engaged in one ~~or~~ or more crafts or hazardous occupations,
- 13 in the same or similar lines of business, insuring only their own
- 14 members and their families, and the ladies' societies or ladies'
- 15 auxiliaries to such orders, societies or associations;
- 16 (3) Domestic societies which limit their membership to employees of a
- 17 particular city or town, designated firm, business house or corporation
- 18 which provide for a death benefit of not more than ~~four hundred dollars~~
- 19 ~~(\$400.00)~~ five hundred dollars (\$500.00) or disability benefits of not
- 20 more than three hundred fifty dollars (\$350.00) to any one person in
- 21 any one year, or both; or

1 (4) Domestic societies or associations of a purely religious, charitable or
2 benevolent description, which provide for a death benefit of not more
3 than ~~four hundred dollars (\$400.00)~~ five hundred dollars (\$500.00) or for
4 disability benefits of not more than three hundred fifty dollars
5 (\$350.00) to any one person in any one year, or both."

6 Sec. 3. G.S. 31A-11(a)(2) reads as rewritten:

7 "(2) In any other manner payable to the slayer by virtue of his surviving the
8 decedent, shall be paid to the person or persons who would have been
9 entitled thereto as if the slayer had predeceased the decedent. If no
10 alternate beneficiary is named, insurance and annuity proceeds shall be
11 paid into the estate of the decedent."

12 Sec. 4. G.S. 58-536(b) reads as rewritten:

13 "(b) Each application for the issuance or renewal of a certificate shall be
14 accompanied by a filing fee of twenty dollars (\$20.00) and evidence of maintenance of
15 a ~~fidelity bond of not less than one hundred thousand dollars (\$100,000)~~ surety bond in an
16 amount to be determined by rules adopted by the Commissioner."

17 Sec. 5. G.S. 58-475(a) reads as rewritten:

18 "(a) If an insurer intends to renew a policy, the insurer must furnish to the insured
19 the renewal terms and a statement of the amount of premium due for the renewal policy
20 period. This section applies only if the insurer intends to decrease coverage, increase
21 deductibles, impose any kind of surcharge, or increase the premium rate in the renewal
22 policy."

23 Sec. 6. G.S. 58-475(c) reads as rewritten:

24 "(c) If the insurer fails to furnish the renewal terms and statement of premium due
25 in the manner required by this section, the insured may cancel the renewal policy within
26 the 30-day period following receipt of the renewal terms and statement of premium due.
27 For refund purposes, earned premium for any period of coverage shall be calculated pro
28 rata upon the premium applicable to the policy being renewed instead of the renewal
29 policy. If an insurer fails to comply with the 45-day notice requirement of this section,
30 the insured is entitled to the option of coverage under the policy being renewed and at
31 the same cost of that policy until 45 days have elapsed after the insurer has provided the
32 insured with the notice."

33 Sec. 7. G.S. 58-351(b) reads as rewritten:

34 "(b) The refund of premiums for decreasing term credit life insurance in
35 transactions of 60 months or less and the refund of premiums for single interest credit
36 property insurance and single interest physical damage insurance shall be equal to the
37 amount computed by the sum of digits formula known as the 'Rule of 78.' The refund
38 of premiums for decreasing term credit life insurance in transactions of more than 60
39 months duration shall be equal to the premium that would be charged for the remaining
40 term and amount of coverage in the policy. The refund of premiums for level term
41 credit life insurance and dual interest credit property insurance and dual interest
42 physical damage insurance shall be equal to the pro rata unearned gross premiums."

1 Sec. 8. G.S. 58-176(c) is amended, at the bottom of the first page of
2 photographically reproduced form, by deleting "Noon" and substituting "12:01 a.m." for
3 "Noon" in both places where it appears.

4 Sec. 10. G.S. 58-54 reads as rewritten:

5 **"§ 58-54. Forms to be approved by Commissioner of Insurance.**

6 (a) It is unlawful for any insurance company doing business in this State to issue,
7 sell, or dispose of any policy, contract, or certificate, or use applications in connection
8 therewith, until the forms of the same have been submitted to and approved by the
9 Commissioner of Insurance of North Carolina, and copies filed in the Insurance
10 Department. If a policy form filing is disapproved by the Commissioner, the
11 Commissioner may return the filing to the filer. As used in this section, 'policy form'
12 includes endorsements, riders, or amendments to policies that have already been
13 approved by the Commissioner.

14 (b) As to group and blanket accident and health insurance and group life
15 insurance policies issued and delivered to a trust outside of this State and covering
16 persons resident in this State, the group certificates to be delivered or issued for delivery
17 in this State shall be filed with and approved by the Commissioner pursuant to
18 subsection (a) of this section."

19 Sec. 11. Article 3 of Chapter 58 of the General Statutes is amended by
20 adding a new section to read:

21 **"§ 58-30.6. Meaning of terms 'accident', 'accidental injury', and 'accidental**
22 **means'.**

23 (a) This section applies to the provisions of all life insurance and accident and
24 health insurance policies and annuities under this Chapter, subscriber contracts under
25 Chapter 57 of the General Statutes, preferred provider arrangements under this Chapter
26 and under Chapter 57 of the General Statutes, and health maintenance organization
27 plans under Chapter 57B of the General Statutes.

28 (b) 'Accident', 'accidental injury', and 'accidental means' shall be defined to
29 imply 'result' language and shall not include words that establish an accidental means
30 test."

31 Sec. 12. Article 32 of Chapter 58 of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 58-360. Automobile physical damage insurance.**

34 (a) Single interest or dual interest physical damage insurance may be written on
35 nonfleet private passenger motor vehicles, as defined in G.S. 58-131.35A, that are used
36 as collateral for loans made under Article 15 of Chapter 53 of the General Statutes,
37 subject to the following conditions:

38 (1) Such insurance may be written only on a motor vehicle on which there
39 is a valid inspection sticker.

40 (2) If a motor vehicle is already insured and the lender is named loss
41 payee and that insurance continues in force, then no other physical
42 damage insurance may be written.

- 1 (3) Notification must be given orally and in writing to the borrower that he
2 has the option to provide his own insurance coverage at any point
3 during the term of the loan.
- 4 (4) The creditor must have either a first or second lien on the motor
5 vehicle to be insured.
- 6 (5) The amount of insurance coverage may not exceed the lesser of (i) the
7 principal amount of the loan plus allowable charges, excluding
8 interest, plus two scheduled installment payments or (ii) the actual fair
9 market value of the collateral at the time the insurance is written.
- 10 (6) When a creditor accepts other collateral in addition to a motor vehicle
11 as herein defined, the combined insurance on all collateral may not
12 exceed the initial indebtedness of the loan.

13 (b) Policy forms, rates, rating plans, and classifications for the insurance
14 authorized by subsection (a) of this section shall be filed with the Commissioner in
15 accordance with Articles 13C and 38 of this Chapter."

16 Sec. 13. G.S. 58-54.24 reads as rewritten:

17 "**§ 58-54.24. Commissioner authorized to seek injunctions against unauthorized**
18 **insurers. cease and desist orders.**

19 ~~Whenever the Commissioner, from evidence satisfactory to him, has reasonable~~
20 ~~grounds for believing that any person is violating or is about to violate the provisions of~~
21 ~~G.S. 58-54.21, he may through the Attorney General of this State cause a complaint to~~
22 ~~be filed in the Superior Court of Wake County to enjoin and restrain such person from~~
23 ~~continuing or engaging in such violations or doing any act in furtherance thereof. The~~
24 ~~court shall have jurisdiction over the proceedings and shall have the power to make and~~
25 ~~enter an appropriate order or judgment granting preliminary or final injunctive relief as~~
26 ~~in its discretion is proper. Provided, however, that the person alleged to be in violation~~
27 ~~shall have been served with process as is provided in G.S. 58-54.25.~~

28 (a) Whenever the Commissioner, from evidence satisfactory to him, has
29 reasonable grounds to believe that any person is violating or is about to violate G.S. 58-
30 54.21, he may, after notice and opportunity for hearing, reduce his findings to writing
31 and issue and cause to be served upon such person an order to cease and desist from
32 violating G.S. 58-54.21.

33 (b) Until the expiration of the time allowed under G.S. 58-54.24A(a) for filing
34 a petition for review, if no such petition has been duly filed within such time; or if a
35 petition for review has been filed within such time, then until the transcript of the record
36 in the proceeding has been filed in the Court, the Commissioner may at any time, upon
37 such notice and in such manner as he considers proper, modify or set aside in whole or
38 in part any order issued by him under this section.

39 (c) After the expiration of the time allowed for filing a petition for review, if
40 no such petition has been duly filed within such time, the Commissioner may at any
41 time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in
42 whole or in part, any order issued by him under this section, whenever in his opinion
43 conditions of fact or of law have so changed as to require such action or if the public
44 interest requires."

1 Sec. 13.1. Article 3C of Chapter 58 of the General Statutes is amended by
2 adding the following new sections:

3 **"§ 58-54.24A. Judicial review of cease and desist orders.**

4 (a) Any person required by an order of the Commissioner under G.S. 58-
5 54.24 to cease and desist may obtain a review of such order by filing in the Superior
6 Court of Wake County, within 30 days from the date of the service of such order, a
7 written petition praying that the order of the Commissioner be set aside. A copy of such
8 petition shall be immediately served upon the Commissioner, and the Commissioner
9 shall then immediately certify and file in the Court a transcript of the entire record in the
10 proceeding, including all the evidence taken, and the order of the Commissioner. Upon
11 such filing of the petition and transcript the Court has jurisdiction of the proceeding and
12 of the question determined therein, shall determine whether the filing of such petition
13 shall operate as a stay of such order of the Commissioner, and has the power to make
14 and enter upon the pleadings, evidence, and proceedings set forth in such transcript a
15 decree modifying, affirming, or reversing the order of the Commissioner, in whole or in
16 part. The findings of the Commissioner as to the facts, if supported by substantial
17 evidence, shall be conclusive.

18 (b) To the extent that the order of the Commissioner is affirmed, the Court
19 shall thereupon issue its own order commanding obedience to the terms of such order of
20 the Commissioner. If either party applies to the Court for leave to adduce additional
21 evidence, and satisfies the Court that such additional evidence is material and that there
22 were reasonable grounds for the failure to adduce such evidence in the proceeding
23 before the Commissioner, the Court may order such additional evidence to be taken
24 before the Commissioner and to be adduced upon the hearing in such manner and upon
25 such terms and conditions as the Court considers proper. The Commissioner may
26 modify his findings of fact, or make new findings by reason of the additional evidence
27 so taken; and he shall file such modified or new findings which, if supported by
28 substantial evidence, shall be conclusive; or shall file his recommendations, if any, for
29 the modification or setting aside of his original order, with the return of such additional
30 evidence.

31 (c) A cease and desist order issued by the Commissioner under G.S. 58-54.24
32 shall become final:

33 (1) Upon the expiration of the time allowed for filing a petition for review
34 if no such petition has been duly filed within such time; except that the
35 Commissioner may thereafter modify or set aside his order to the
36 extent provided in G.S. 58-54.24(b); or

37 (2) Upon the final decision of the Court if the court directs that the order
38 of the Commissioner be affirmed or the petition for review dismissed.

39 (d) No order of the Commissioner under this Article or order of a Court to
40 enforce the same shall in any way relieve or absolve any person affected by such order
41 from any liability under any other laws of this State.

42 **"§ 58-54.24B. Penalty.**

1 Any person who willfully violates a cease and desist order of the Commissioner
2 under G.S. 58-54.24, after it has become final, and while such order is in effect, is
3 subject to the provisions of G.S. 58-9.7.

4 **"§ 58-54.24C. Provisions of Article additional to existing law.**

5 The powers vested in the Commissioner by this Article are additional to any
6 other powers to enforce any penalties, fines, or forfeitures authorized by law with
7 respect to transacting the business of insurance without authority."

8 Sec. 14. Section 16 of Chapter 430 of the 1987 Session Laws reads as
9 rewritten:

10 "Sec. 16. This act is effective upon ratification ~~and Section 15 of this act shall~~
11 ~~expire on July 1, 1989."~~

12 Sec. 15. G.S. 58-614(c)(4) and 58-614(c)(6) are repealed.

13 Sec. 16. G.S. 58-614(d) reads as rewritten:

14 "(d) A fire and casualty insurance license shall not authorize an agent ~~or broker~~ to
15 sell accident and health insurance. An agent ~~or broker~~ must hold a life, accident and
16 health insurance license or an accident and health insurance license to sell accident and
17 health insurance."

18 Sec. 17. G.S. 58-614(e) reads as rewritten:

19 "(e) A limited representative may receive qualification for one or more licenses
20 without examination for the following kinds of insurance:

21 (1) ~~Variable Contracts~~

22 (2) ~~Ocean Marine~~

23 (3) Credit Life, Accident and Health

24 (4) Credit

25 (5) Travel Accident and Baggage

26 (6) Motor Club

27 (7) Dental Service "

28 Sec. 18. G.S. 58-614 is amended by adding a new subsection to read:

29 "(d1) A life, accident and health insurance license shall authorize an agent to sell
30 variable contracts, provided that the licensee satisfies the commissioner that he has
31 successfully completed Part I, NASD Securities Examination, or an alternative
32 examination satisfactory to the Commissioner; and that he has complied with all
33 securities registration requirements under State and federal law."

34 Sec. 19. G.S. 58-615(d)(2) reads as rewritten:

35 "(2) All individual applicants for licensing as life, accident and health
36 agents or as fire and casualty agents shall furnish evidence satisfactory
37 to the Commissioner of successful completion of at least 40 hours of
38 instruction, which shall in all cases include the general principles of
39 insurance and any other topics that the Commissioner establishes by
40 regulation; and which shall, in the case of life, accident and health
41 insurance applicants, include the principles of life, accident, and health
42 insurance and, in the case of fire and casualty insurance applicants,
43 shall include instruction in fire and casualty insurance. Any applicant
44 who submits satisfactory evidence of having successfully completed

1 an agent training course that has been approved by the Commissioner
2 and that is offered by or under the auspices of a fire and casualty or life
3 or health insurance company admitted to do business in this State or a
4 professional insurance association shall be deemed to have satisfied
5 the educational requirements of this subdivision. The requirement in
6 this subdivision for completion of 40 hours of instruction applies only
7 to applicants for life, accident and health or fire and casualty insurance
8 licenses. The provisions of this subdivision also apply to applicants
9 for accident and health insurance licenses; except that such applicants
10 shall be required to successfully complete 20 hours of instruction.
11 Such instruction shall in all cases include the general principles of
12 insurance and the principles of accident and health insurance."

13 Sec. 20. G.S. 58-30.3 is amended by adding the following subsection:

14 "(c) No insurer shall refuse to insure or refuse to continue to insure an individual;
15 limit the amount, extent, or kind of coverage available to an individual; or charge an
16 individual a different rate for the same coverage, because of the race, color, or national
17 or ethnic origin of that individual. This subsection supplements the provisions of G.S.
18 58-54.4(7) and also applies to entities subject to Chapter 57 and 57B of the General
19 Statutes."

20 Sec. 21. G.S. 58-42.1 reads as rewritten:

21 **"§ 58-42.1. Twisting with respect to insurance policies; penalties.**

22 No insurer shall make or issue, or cause to be issued, any written or oral statement
23 that willfully misrepresents or willfully makes an incomplete comparison as to the
24 terms, conditions, or benefits contained in any policy of insurance for the purpose of
25 inducing or attempting to induce a policyholder in any way to terminate or surrender,
26 exchange, or convert any insurance policy. Any person who violates this section is
27 subject to the provisions of G.S. 58-9.7, 58-37 through 58-39, ~~58-42,~~ and 58-44.4."

28 Sec. 22. G.S. 58-173.8(a) reads as rewritten:

29 "(a) Any person having an insurable interest in insurable property, may, on or
30 after the effective date of the plan of operation, be entitled to apply to the Association
31 for such coverage and for an inspection of the property. Such application may be made
32 on behalf of the applicant by a broker or agent authorized by him. Each application
33 shall contain a statement as to whether or not there ~~is~~ are any unpaid premiums due
34 from the applicant for essential property insurance on the property.

35 The term 'insurable interest' as used in this subsection shall be deemed to include
36 any lawful and substantial economic interest in the safety or preservation of property
37 from loss, destruction or pecuniary damage."

38 Sec. 23. G.S. 58-546(a)(11) reads as rewritten:

39 "(11) 'Intermediate care facility' shall be defined in accordance
40 with the terms of G.S. ~~131E-176(14)~~ 131E-176(14b)."

41 Sec. 24. G.S. 97-133(a)(3) reads as rewritten:

42 "(3) Administer a fund, to be known as the North Carolina Self-Insurance
43 Guaranty Fund, which shall receive the assessments required in
44 subdivision (2) of this subsection. Once the Fund reaches one million

1 dollars (\$1,000,000), no further assessments shall be made except
2 initial assessments of new member self-insurers that are required to be
3 made in subdivision (2)d. of this subsection. Assessments may be
4 subsequently made only to maintain the Fund at a level of one million
5 dollars (\$1,000,000). In its discretion, the Board may determine that
6 the assets of the Fund should be segregated, or, that a separate
7 accounting shall be made, in order to identify that portion of the Fund
8 which represents assessments paid by individual self-insurers and that
9 portion of the Fund which represents assessments paid by group self-
10 insurers. If the Board determines to segregate the Fund in this manner,
11 the Association shall thereafter pay covered claims against individual
12 member self-insurers from that portion of the Fund which represents
13 assessments against individual self-insurers and shall thereafter pay
14 covered claims against group member self-insurers from that portion
15 of the Fund which represents assessments against group self-insurers.
16 The cost of administration incurred by the Association shall be borne
17 by the Fund and the Association is authorized to secure reinsurance
18 and bonds and to otherwise invest the assets of the Fund to effectuate
19 the purpose of the Association, subject to the approval of the
20 Commissioner. All earnings from investment of Fund assets shall be
21 placed in or credited to the Fund.

22 The Association may purchase primary excess insurance from an
23 insurer licensed by the Commissioner for the appropriate lines of
24 authority to defray its exposure to loss occasioned by the default of
25 one of its members. The terms of any excess insurance so purchased
26 shall be limited to providing coverage of liabilities which exceed the
27 Fund's assets after the payment by member self-insurers of the
28 maximum post-insolvency assessment provided in ~~G.S. 197-133(e)(1)~~
29 subdivision (c)(1) of this section herein and the Association shall fund
30 any such purchase by levying a special assessment on its members for
31 this purpose or by application of any unencumbered earnings of the
32 Fund or any other available funds. The Association may obtain from
33 each member any information the Association may reasonably require
34 in order to facilitate the securing of this primary excess insurance. The
35 Association shall establish reasonable safeguards designed to insure
36 that information so received is used only for this purpose and is not
37 otherwise disclosed;"

38 Sec. 25. G.S. 58-124.24 reads as rewritten:

39 **"§ 58-124.24. Appeal to Commissioner from decision of Bureau.**

40 Any member of the Bureau may appeal to the Commissioner from any decision of
41 the Bureau ~~and the Commissioner shall, after~~. After a hearing held on not less than 10
42 days' written notice to the appellant and to the Bureau, the Commissioner shall issue an
43 order approving the decision or directing of the Bureau or directing it to give further
44 consideration to such proposal to reconsider the decision. In the event the Commissioner

1 directs the Bureau to reconsider the decision and the Bureau fails to take satisfactory
2 action satisfactory to the Commissioner, the Commissioner shall make such order as he
3 may see fit."

4 Sec. 26. G.S. 58-9(1) reads as rewritten:

5 "(1) See that all laws of this State governing insurance companies,
6 associations, orders or bureaus relating to the business of insurance are
7 faithfully executed, that he is statutorily responsible for administering
8 are faithfully executed; and to that end he shall have power and
9 authority to make rules and regulations, not inconsistent with law in
10 accordance with Chapter 150B of the General Statutes, to enforce,
11 carry out and make effective the provisions of this Chapter, those laws.
12 He also has the authority and to make such further rules and regulations,
13 not contrary to any provision of this Chapter those laws which will
14 prevent persons subject to his regulatory authority from engaging in
15 practices injurious to the public by insurance companies, fraternal orders
16 and societies, agents, adjusters and motor vehicle damage appraisers. The
17 Commissioner may likewise, from time to time, withdraw, modify or amend
18 any such regulation: Provided, however, that the provisions of this
19 subsection shall not apply to the provisions of Article 34 of this Chapter."

20 Sec. 27. Article 2 of Chapter 58 of the General Statutes is amended by
21 adding new sections to read:

22 "**§ 58-9.8. Designated hearing officers.**

23 In any contested case under this Chapter, Chapters 57, 57B, or 85C of the
24 General Statutes, Article 9B or 9C of Chapter 66 of the General Statutes, or Article 9A
25 of Chapter 143 of the General Statutes, the Commissioner may designate a member of
26 his staff to serve as a hearing officer. When the Commissioner is unable or elects not to
27 hear a contested case and elects not to designate a hearing officer to hear a contested
28 case, he shall apply to the director of the Office of Administrative Hearings for the
29 designation of an Administrative Law Judge to preside at the hearing of a contested
30 case. Upon receipt of the application, the Director shall, without undue delay, assign an
31 Administrative Law Judge to hear the case.

32 "**§ 58-9.9. Restraining orders; criminal convictions.**

33 (a) Whenever it appears to the Commissioner that any person has violated, is
34 violating, or threatens to violate any provision of this Chapter, Chapters 57, 57B, or 85C
35 of the General Statutes, Article 9B or 9C of Chapter 66 of the General Statutes, or
36 Article 9A of Chapter 143 of the General Statutes, he may apply to the Superior Court
37 of Wake County for a restraining order and injunction to restrain such violation. If upon
38 application the Court finds that any provision of said statutes has been violated, is being
39 violated, or a violation thereof is threatened, the Court shall issue an order restraining
40 and enjoining such violations; and such relief may be granted regardless of whether
41 criminal prosecution is instituted under any provision of law.

42 (b) The conviction in any court of competent jurisdiction of any licensee for
43 any criminal violation of the statutes referred to in subsection (a) of this section
44 automatically has the effect of suspending the license of that person until such time that

1 the license is reinstated by the Commissioner. As used in this subsection, 'conviction'
2 includes an adjudication of guilt, a plea of guilty, and a plea of **nolo contendere**.

3 **"§ 58-9.10. License surrenders.**

4 This section applies to persons or entities licensed under this Chapter, Chapters
5 57, 57B, or 85C of the General Statutes, Article 9B or 9C of Chapter 66 of the General
6 Statutes, or Article 9A of Chapter 143 of the General Statutes. When a licensee is
7 accused of any act, omission, or misconduct that would subject the license to suspension
8 or revocation, the licensee, with the consent and approval of the Commissioner, may
9 surrender the license for a period of time established by the Commissioner. A person or
10 entity who surrenders a license shall not thereafter be eligible for or submit any
11 application for licensure during the period of license surrender."

12 Sec. 28. G.S. 58-618(c) reads as rewritten:

13 "(c) ~~In the event that the action by~~ Whenever the Commissioner is to deny or not
14 ~~renew~~ denies an initial application for a license, he shall notify the applicant or licensee
15 and advise, in writing, the applicant or licensee of the reasons for the denial or
16 ~~nonrenewal~~ of the license. Within 30 days of receipt of notification the applicant or
17 ~~licensee~~ may make written demand upon the Commissioner for a hearing to determine
18 the reasonableness of the Commissioner's action. Such hearing shall be scheduled
19 within 30 days from the date of receipt of the written demand ~~by the applicant and shall be~~
20 ~~held pursuant to the provisions of Article 3A of Chapter 150B."~~

21 Sec. 29. G.S. 66-49.14 reads as rewritten:

22 **"§ 66-49.14. Hearing on denial of license; ~~judicial review of determination by~~**
23 **Commissioner.**

24 ~~Any applicant for a license or renewal of a license hereunder shall be entitled to a hearing~~
25 ~~before~~ Whenever the Commissioner denies an initial application for a license, he shall
26 notify the applicant and advise, in writing, the applicant of the reasons for the denial or
27 nonrenewal of the license. Within 30 days of receipt of notification the ~~in the event such~~
28 application is denied or not acted upon within a reasonable time. Any applicant adversely
29 affected by a determination of ~~may make written demand upon~~ the Commissioner shall
30 have a right to seek judicial review of such determination under the provisions and limitations
31 of G.S. 58-9-3 for a hearing to determine the reasonableness of the Commissioner's
32 action. Such hearing shall be scheduled within 30 days from the date of receipt of the
33 written demand."

34 Sec. 30. G.S. 85C-18 reads as rewritten:

35 **"§ 85C-18. Notice and hearing before refusal, suspension, revocation, etc., of**
36 **license.**

37 (a) No license shall be ~~refused~~, suspended, revoked, or renewal refused except on
38 reasonable notice and opportunity to be heard afforded the person licensed or renewal
39 thereof.

40 (b) Whenever the Commissioner denies an initial application for a license, he
41 shall notify the applicant and advise, in writing, the applicant of the reasons for the
42 denial of the license. Within 30 days of receipt of notification the applicant may make
43 written demand upon the Commissioner for a hearing to determine the reasonableness

1 of the Commissioner's action. Such hearing shall be scheduled within 30 days from the
2 date of receipt of the written demand."

3 Sec. 31. G.S. 58-182.3, 58-182.4, 58-182.5, and 58-182.7 are each amended
4 by substituting ", 58-182.1, and 58-182.9" for "and 58-182.1".

5 Sec. 32. Article 20 of Chapter 58 of the General Statutes is amended by
6 adding new sections to read:

7 **"§ 58-182.9. Deposits of foreign life insurance companies.**

8 In addition to other requirements of this Chapter, all foreign life insurance
9 companies shall deposit securities, as specified in G.S. 58-182.3, having a market value
10 of one hundred thousand dollars (\$100,000) as a prerequisite of doing business in this
11 State. All foreign life insurance companies shall deposit an additional one hundred
12 thousand dollars (\$100,000) where such companies cannot show three years of net
13 operational gains prior to admission. Foreign life insurance companies that are licensed
14 on or before the effective date of this section shall have one year from that date to
15 comply with this section.

16 **"§ 58-182.10. Deposits of capital and surplus by domestic insurance companies.**

17 (a) In addition to other requirements of this Chapter, all domestic stock insurance
18 companies shall deposit their required statutory capital with the Department. Such
19 deposits shall be under the exclusive control of the Department, for the protection of all
20 policyholders wheresoever situated.

21 (b) In addition to other requirements of this Chapter, all domestic mutual
22 insurance companies shall deposit at least fifty percent (50%) of their minimum
23 required surplus with the Department, with the amount of the deposit to be determined
24 by the Commissioner. Such deposits shall be under the exclusive control of the
25 Department, for the protection of all policyholders wheresoever situated.

26 (c) Domestic insurance companies that are licensed on or before the effective
27 date of this section shall have one year from that date to comply with this section."

28 Sec. 33. G.S. 58-79.1(c) is amended by adding a new subdivision to read:

29 " (11) Electronic and mechanical machines constituting a data
30 processing and accounting system if the cost of such system is at
31 least twenty-five thousand dollars (\$25,000), but not more than two
32 percent (2%) of its admitted assets, which cost shall be amortized in
33 full over a period not to exceed 10 calendar years."

34 Sec. 34. G.S. 58-16 reads as rewritten:

35 **"§ 58-16. Examinations to be made.**

36 Before granting certificates of authority to an insurance company to issue policies or
37 make contracts of insurance the Commissioner shall be satisfied, by such examination
38 and evidence as he sees fit to make and require, that the company is otherwise duly
39 qualified under the laws of the State to transact business therein. As often as once in
40 three years ~~or, in the Commissioner's discretion, as often as once in five years~~ he shall
41 personally or by his deputy visit each domestic insurance company and thoroughly
42 inspect and examine its affairs, especially as to its financial condition and ability to
43 fulfill its obligations and whether it has complied with the laws. He shall also make an
44 examination of any such company whenever he deems it prudent to do so, or upon the

1 request of five or more of the stockholders, creditors, policyholders, or persons
2 pecuniarily interested therein, who shall make affidavit of their belief, with
3 specifications of their reasons therefor, that the company is in an unsound condition.
4 Whenever the Commissioner deems it prudent for the protection of policyholders in this
5 State he shall in like manner visit and examine, or cause to be visited and examined by
6 some competent person appointed by him for that purpose, any foreign insurance
7 company applying for admission or already admitted to do business in this State. Any
8 domestic or foreign company examined under this section shall pay the proper charges
9 incurred in the examination, including the expenses of the Commissioner or his deputy
10 and the expenses and compensation of his assistants employed therein. The refusal of
11 any insurer to submit to examination, or the refusal or failure of an insurer to pay the
12 expenses of examination upon presentation of a bill therefor by the Commissioner, shall
13 be grounds for the revocation or refusal of a license. The Commissioner is authorized to
14 make public any such revocation or refusal of license as he may determine and to give
15 his reasons therefor. The Commissioner shall promptly institute a civil action to recover
16 the expenses of examination against any insurer which refuses or fails to pay. For these
17 purposes the Commissioner or his deputy or persons making the examination shall have
18 free access to all the books and papers of the insurance company that relate to its
19 business, and to the books and papers kept by any of its agents, or to the books and
20 papers of any affiliated or subsidiary corporations or partnerships that affect the affairs
21 or financial condition of said company and may summon, administer oaths to, and
22 examine as witnesses, the directors, officers, agents, and trustees of any such company,
23 and any other person, affiliate or subsidiary in relation to its affairs, transactions, and
24 condition."

25 Sec. 35. Article 2 of Chapter 58 of the General Statutes is amended by
26 adding a new section to read:

27 "**§ 58-21.4. CPA audits of financial statements.**

28 The Commissioner is authorized to adopt rules to provide for audits and opinions of
29 insurers' financial statements by certified public accountants. Such rules shall be in
30 accordance with the NAIC model rule that requires audited financial reports, as
31 amended."

32 Sec. 36. G.S. 85C-11 reads as rewritten:

33 "**§ 85C-11. Qualification for professional bondsmen and runners.**

34 Before license can issue to an applicant permitting him to act as a professional
35 bondsman or runner, he must furnish the Commissioner a complete set of his
36 fingerprints and a recent passport size full-face photograph of himself. The applicant's
37 fingerprints shall be certified by an authorized law-enforcement officer.

38 Every applicant for license as a professional bondsman or runner before being issued
39 such license shall satisfy the Commissioner that he:

- 40 (1) Is 18 years of age or over;
- 41 (2) Is a resident of this State;
- 42 (3) Is a person of good moral character and has not been convicted of a
43 felony or any crime involving moral turpitude;

- 1 (4) Has knowledge, training, or experience of sufficient duration and
 2 extent to reasonably satisfy the Commissioner that he possesses the
 3 competence necessary to fulfill the responsibilities of a licensee;
 4 (5) Has no outstanding bail bond obligations;
 5 (6) Is not or has not been in violation of any provision of this Chapter or
 6 of Article 26 of Chapter 15A of the General Statutes or of any similar
 7 provision of law of any other state;
 8 (7) Has not been in any manner disqualified under the laws of this State or
 9 any other state to engage in the bail bond business."

10 Sec. 37. G.S. 85C-17(a) is amended by adding the following new
 11 subdivisions:

- 12 " (12) For cheating on an examination for a license under this
 13 Chapter.
 14 (13) For entering into any business association or agreement with any
 15 person, which person is at that time found by the Commissioner to be
 16 in violation of any of the bail bond laws of this State, or which person
 17 has been in any manner disqualified under the bail bond laws of any
 18 other state, whereby such person has any direct or indirect financial
 19 interest in the bail bond business of the licensee or applicant.
 20 (14) For knowingly aiding or abetting others to evade or violate the
 21 provisions of this Chapter."

22 Sec. 39. G.S. 85C-36 reads as rewritten:

23 **"§ 85C-36. Limit on principal amount of bond to be written by professional**
 24 **bondsman.**

25 No professional bondsman shall ~~act as surety~~ become liable on any ~~bail bond~~ or
 26 multiple of bonds for any one individual ~~pertaining to any charges arising out of one~~
 27 ~~transaction or related transactions whose principal sum is in excess of that totals more~~
 28 than one-fourth of the value of the securities deposited with the Commissioner at that
 29 time, until final termination of liability on such bond or multiple of bonds."

30 Sec. 40. G.S. 85C-34 reads as rewritten:

31 **"§ 85C-34. Monthly report required.**

32 Each professional bail bondsman and surety bondsman shall file with the
 33 Commissioner of Insurance a written report in form prescribed by the Commissioner
 34 regarding all bail bonds on which he is liable as of the first day of each month showing
 35 (i) each individual bonded, (ii) the date such bond was given, (iii) the principal
 36 sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged
 37 for the bonding service in each instance. Such report shall be filed on or before the
 38 fifteenth day of each month. Within the same time, a copy of this written report must
 39 also be filed with the clerk of superior court in any county in which he is obligated on
 40 bail bonds."

41 Sec. 41. G.S. 143-143.11 is amended by adding a new subsection to read:

42 "(h) To obtain a license under this Article, a person must pass an examination
 43 prescribed by the Board that is based on the North Carolina Manufactured/Mobile
 44 Home Regulations and Administrative Procedures required to enforce the Codes."

1 Sec. 42. G.S. 143-143.13(c) reads as rewritten:

2 "(c) In addition to the authority to deny, suspend, or revoke a license under this
3 Article, the Board also has the authority to impose a five hundred dollar (\$500.00) civil
4 penalty per violation upon any person violating the provisions of this Article."

5 Sec. 43. G.S. 58-173.7 reads as rewritten:

6 "**§ 58-173.7. Directors to submit plan of operation to Commissioner; review and
7 approval; amendments.**

8 Within 90 days after April 17, 1969, the directors of the Association shall submit to
9 the Commissioner for his review and approval, a proposed plan of operation. Such
10 proposed plan shall set forth the number, qualifications, terms of office, and manner of
11 election of the members of the board of directors, and shall grant proper credit annually
12 to each member of the Association for essential property insurance voluntarily written
13 in the beach area and shall provide for the efficient, economical, fair and
14 nondiscriminatory administration of the Association and for the prompt and efficient
15 provision of essential property insurance in the beach areas of North Carolina so as to
16 promote orderly community development in those areas and to provide means for the
17 adequate maintenance and improvement of the property in such areas. Such proposed
18 plan may include a preliminary assessment of all members for initial expenses necessary
19 to the commencement of operation; the establishment of necessary facilities;
20 management of the Association; plan for the assessment of members to defray losses
21 and expenses; underwriting standards; procedures for the acceptance and cession of
22 reinsurance; procedures for determining the amounts of insurance to be provided to
23 specific risks; time limits and procedures for processing applications for insurance and
24 for such other provisions as may be deemed necessary by the Commissioner to carry out
25 the purposes of this Article.

26 The proposed plan shall be reviewed by the Commissioner and approved by him if
27 he finds that such plan fulfills the purposes provided by G.S. 58-173.1 of this Article. In
28 the review of the proposed plan the Commissioner may, in his discretion, consult with
29 the directors of the Association and may seek any further information which he deems
30 necessary to his decision. If the Commissioner approves the proposed plan, he shall
31 certify such approval to the directors and the plan shall become effective 10 days after
32 such certification. If the Commissioner disapproves all or any part of the proposed plan
33 of operation he shall return the same to the directors with his written statement for the
34 reasons for disapproval and any recommendations he may wish to make. The directors
35 may alter the plan in accordance with the Commissioner's recommendation or may
36 within 30 days from the date of disapproval return a new plan to the Commissioner.
37 Should the directors fail to submit a proposed plan of operation within 90 days of April
38 17, 1969, or a new plan which is acceptable to the Commissioner, or accept the
39 recommendations of the Commissioner within 30 days after his disapproval of the plan,
40 the Commissioner shall promulgate and place into effect a plan of operation certifying
41 the same to the directors of the Association. Any such plan promulgated by the
42 Commissioner shall take effect 10 days after certification to the directors: Provided,
43 however, that until a plan of operation is in effect, pursuant to the provisions of this

1 Article, any existing temporary placement facility may be continued in effect on a
2 mandatory basis on such terms as the Commissioner may determine.

3 The directors of the Association may, subject to the approval of the Commissioner,
4 amend the plan of operation at any time. The Commissioner may review the plan of
5 operation at any time he deems expedient or prudent, but not less than once in each
6 calendar year. After review of such plan the Commissioner may amend the plan after
7 consultation with the directors and upon certification to the directors of such
8 amendment.

9 The Commissioner may designate the kinds of property insurance policies on
10 principal residences to be offered by the association, including insurance policies under
11 Article 12B of this Chapter, and the commission rates to be paid to agents or brokers for
12 these policies, if he finds, after a hearing held in accordance with G.S. 58-9.2, that the
13 public interest requires the designation. The provisions of Chapter 150B do not apply to
14 any procedure under this paragraph, except that G.S. 150B-39 and G.S. 150B-41 shall
15 apply to a hearing under this subsection. Within 30 days after the receipt of notification
16 from the Commissioner of a change in designation pursuant to this paragraph, the
17 association shall submit a revised plan and articles of association for approval in
18 accordance with this section.

19 As used in this section, 'plan of operation' includes all rules, practices, and
20 procedures of the Association."

21 Sec. 44. G.S. 58-173.21 is amended by adding a new subsection to read:

22 "(d) As used in this section, 'FAIR Plan' and 'articles of association' include all
23 rules, practices, and procedures of the association created pursuant to this Article."

24 Sec. 45. Within 30 days after the effective date of this act, the North Carolina
25 Joint Underwriting and Insurance Underwriting Associations shall file, with the
26 Commissioner of Insurance for his approval, copies of all rules, practices, and
27 procedures that are not contained within their respective plans of operation or other
28 documents that have already been approved by the Commissioner.

29 Sec. 46. G.S. 58-56.2(b) reads as rewritten:

30 "~~(b) If the Commissioner refuses to issue a license, he shall notify the applicant of~~
31 ~~the denial, return to the applicant the sum paid as a license fee, but retain the~~
32 ~~examination fee to cover the cost of examining the applicant. —Whenever the~~
33 ~~Commissioner denies an initial application for a license, he shall notify the applicant~~
34 ~~and advise, in writing, the applicant of the reasons for the denial of the license. Within~~
35 ~~30 days of receipt of notification the applicant may make written demand upon the~~
36 ~~Commissioner for a hearing to determine the reasonableness of the Commissioner's~~
37 ~~action. Such hearing shall be scheduled within 30 days from the date of receipt of the~~
38 ~~written demand."~~

39 Sec. 47. Article 18A of Chapter 58 of the General Statutes is amended by
40 adding a new section to read:

41 "**§ 58-173.16B. New programs or coverages.**

42 Unless specifically waived by the Commissioner, all new programs or coverages
43 shall be made available by the Association to policyholders or applicants no later than
44 30 days after the effective date of any statutory or regulatory requirement or within 30

1 days of the Commissioner's approval of any program or coverage filed by the North
2 Carolina Rate Bureau, by the Insurance Services Office, or by any similar or successor
3 entity."

4 Sec. 48. Article 18B of Chapter 58 of the General Statutes is amended by
5 adding a new section to read:

6 **"§ 58-173.32. New programs or coverages.**

7 Unless specifically waived by the Commissioner, all new programs or coverages
8 shall be made available by the Association to policyholders or applicants no later than
9 30 days after the effective date of any statutory or regulatory requirement or within 30
10 days of the Commissioner's approval of any program or coverage filed by the North
11 Carolina Rate Bureau, by the Insurance Services Office, or by any similar or successor
12 entity."

13 Sec. 49. Article 17 of Chapter 58 of the General Statutes is amended by
14 adding a new section to read:

15 **"§ 58-150.1. Amendments to documents.**

16 Any change in or amendment to any document required to be filed under G.S.
17 58-150 shall be promptly filed with the Commissioner."

18 Sec. 50. G.S. 58-73 reads as rewritten:

19 **"§ 58-73. Manner of creating such corporations.**

20 The procedure for organizing such corporations is as follows: The proposed
21 incorporators, not less than 10 in number, a majority of whom must be residents of the
22 State, shall subscribe articles of association setting forth their intention to form a
23 corporation; its proposed name, which must not so closely resemble the name of an
24 existing corporation doing business under the laws of this State as to be likely to
25 mislead the public, and must be approved by the Commissioner of Insurance; the class
26 of insurance it proposes to transact and on what business plan or principle; the place of
27 its location within the State, and if on the stock plan, the amount of its capital stock. The
28 words 'insurance company,' 'insurance association,' or 'insurance society' or 'life' or
29 'casualty' or 'indemnity,' or an acceptable alternative approved by the Commissioner,
30 must be a part of the title of any such corporation; ~~and also the word "mutual," if it is~~
31 ~~organized upon the mutual principle.~~ The certificate of incorporation must be subscribed
32 and sworn to by the incorporators before an officer authorized to take acknowledgment
33 of deeds, who shall forthwith certify the certificate of incorporation, as so made out and
34 signed, to the Commissioner of Insurance of the State at his office in the City of
35 Raleigh. The Commissioner of Insurance shall examine the certificate, and if he
36 approves of it and finds that the requirements of the law have been complied with, shall
37 certify such facts, by certificate on such articles, to the Secretary of State. Upon the
38 filing in the office of the Secretary of State of the certificate of incorporation and
39 attached certificates, and the payment of a charter fee in the amount required for private
40 corporations, and the same fees to the Secretary of State, the Secretary of State shall
41 cause the certificate and accompanying certificates to be recorded in his office, and shall
42 issue a certificate in the following form:

43 Be it known that, whereas (here the names of the subscribers to the articles of
44 association shall be inserted) have associated themselves with the intention of forming a

1 corporation under the name of (here the name of the corporation shall be inserted), for
2 the purpose (here the purpose declared in the articles of association shall be inserted),
3 with a capital (or with a permanent fund) of (here the amount of capital or permanent
4 fund fixed in the articles of association shall be inserted), and have complied with the
5 provisions of the statute of this State in such case made and provided, as appears from
6 the following certified articles of association: (here copy articles of association and
7 accompanying certificates). Now, therefore, I (here the name of the Secretary shall be
8 inserted), Secretary of State, hereby certify that (here the names of the subscribers to the
9 articles of association shall be inserted), their associates and successors, are legally
10 organized and established as, and are hereby made, an existing corporation under the
11 name of (here the name of the corporation shall be inserted), with such articles of
12 association, and have all the powers, rights, and privileges and are subject to the duties,
13 liabilities, and restrictions which by law appertain thereto.

14 Witness my official signature hereunto subscribed, and the seal of the State of North
15 Carolina hereunto affixed, this the day of, in the year (in these blanks the
16 day, month, and year of execution of this certificate shall be inserted; and in the case of
17 purely mutual companies, so much as relates to capital stock shall be omitted).

18 The Secretary of State shall sign the certificate and cause the seal of the State to be
19 affixed to it, and such certificate of incorporation and certificate of the Secretary of
20 State has the effect of a special charter and is conclusive evidence of the organization
21 and establishment of the corporation. The Secretary of State shall also cause a record of
22 his certificate to be made, and a certified copy of this record may be given in evidence
23 with the same effect as the original certificate.

24 Any change in or amendment to the articles of incorporation, charter, or bylaws shall
25 be promptly filed with the Commissioner."

26 Sec. 51. G.S. 58-260.3 is amended by adding the following subsection:

27 "(h) In the event of the insolvency of the employer or insurance fiduciary, any
28 person insured who has incurred medical or hospital costs shall have a lien upon the
29 assets thereof for such costs, which lien is prior to all other liens that can be acquired
30 against such assets."

31 Sec. 52. Article 27 of Chapter 58 of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 58-260.7. Approval of precertification practices.**

34 (a) This section applies to all accident and health insurers under this Chapter, all
35 third party administrators and preferred provider arrangements, all entities subject to
36 Chapters 57 and 57B of the General Statutes, and all self-funded health benefit plans.

37 (b) The Commissioner shall adopt reasonable rules governing precertification
38 practices and forms and utilization review organizations affiliated with the entities
39 subject to this section."

40 Sec. 53. Within one year after the effective date of Section 52 of this act, the
41 Commissioner of Insurance shall give notice of hearing under G.S. 150B-12 for the
42 rules required by Section 52 of this act.

43 Sec. 54. G.S. 58-626(b) reads as rewritten:

1 "(b) No insurer, agent, broker, or limited representative shall knowingly charge to
2 or demand or receive from an applicant for insurance any money or other consideration
3 in return for the processing of applications or other forms or for the rendering of
4 services associated with ~~the issuance or renewal of~~ a contract of insurance, which money
5 or other consideration is in addition to the ~~filed and approved~~ premium for such contract,
6 unless the applicant consents in writing before any services are rendered."

7 Sec. 55. G.S. 58-77(5)d, 58-124.28, 58-131.60, and 58-472(a) are each
8 amended by substituting "six adjacent counties in this State" for "five counties in this
9 State that are adjacent to the county in which its home office is located".

10 Sec. 56. G.S. 20-279.32 reads as written:

11 **"§ 20-279.32. Exceptions.**

12 This Article, except its provisions as to the filing of proof of financial responsibility
13 by a common carrier and its drivers, does not apply to any vehicle operated under a
14 permit or certificate of convenience or necessity issued by the North Carolina Utilities
15 Commission, or by the Interstate Commerce Commission, if public liability and
16 property damage insurance for the protection of the public is required to be carried upon
17 it. This Article does not apply to any motor vehicle owned by the State of North
18 Carolina, nor does it apply to the operator of a vehicle owned by the State of North
19 Carolina who becomes involved in an accident while operating the state-owned vehicle
20 if the Commissioner determines that the vehicle at the time of the accident was probably
21 being operated in the course of the operator's employment as an employee or officer of
22 the State. This Article does not apply to any motor vehicle owned by a county or
23 municipality of the State of North Carolina, nor does it apply to the operator of a vehicle
24 owned by a county or municipality of the State of North Carolina who becomes
25 involved in an accident while operating such vehicle in the course of the operator's
26 employment as an employee or officer of the county or municipality. This Article does
27 not apply to the operator of a vehicle owned by a political subdivision, other than a
28 county or municipality, of the State of North Carolina who becomes involved in an
29 accident while operating such vehicle if the Commissioner determines that the vehicle at
30 the time of the accident was probably being operated in the course of the operator's
31 employment as an employee or officer of the subdivision providing that the
32 Commissioner finds that the political subdivision has waived any immunity it has with
33 respect to such accidents and has in force an insurance policy or other method of
34 satisfying claims which may arise out of the accident. This Article does not apply to
35 any motor vehicle owned by the federal government, nor does it apply to the operator of
36 a motor vehicle owned by the federal government who becomes involved in an accident
37 while operating the government-owned vehicle if the Commissioner determines that the
38 vehicle at the time of the accident was probably being operated in the course of the
39 operator's employment as an employee or officer of the federal government."

40 Sec. 57. G.S. 58-251.2(a) is amended by deleting the third paragraph, which
41 begins with "An insurer" and ends with "in force".

42 Sec. 58. G.S. 58-254.7 is amended by designating the present five paragraphs
43 as subsections (a) through (e) and by adding a new subsection (f) to read:

1 "(f) An insurer may increase rates chargeable on policies subject to this section,
2 other than noncancellable policies, with the approval of the Commissioner if the
3 Commissioner finds that such rates are not excessive, not inadequate, and not unfairly
4 discriminatory; and exhibit a reasonable relationship to the benefits provided by such
5 policies. Such approved rates shall be guaranteed by the insurer, as to the policyholders
6 thereby affected, for a period of not less than 12 months; or as an alternative to the
7 insurer giving such guarantee, such approved rates may be applicable to all
8 policyholders at one time if the insurer chooses to apply for such relief with respect to
9 such policies no more frequently than once in any 12-month period. Such rates shall be
10 applicable to all policies of the same type; provided that no rate increase may become
11 effective for any policy unless the insurer has given the policyholder written notice of
12 the rate revision 45 days prior to the effective date of the revision. The policyholder
13 thereafter must pay the revised rate in order to continue the policy in force. The
14 Commissioner may promulgate reasonable rules, after notice and hearing, to require the
15 submission of supporting data and such information as is deemed necessary to
16 determine whether such rate revisions meet these standards."

17 Sec. 59. G.S. 57-4 is amended by rewriting the second sentence of the second
18 paragraph to read:

19 "The Commissioner may refuse approval if he finds that such rates are excessive,
20 inadequate, or unfairly discriminatory; or do not exhibit a reasonable relationship to the
21 benefits provided by such contracts."

22 Sec. 60 G.S. 57-4.1 is amended by inserting the following after the first
23 sentence:

24 "Such rate revision or new rate schedule shall be guaranteed by the insurer, as to the
25 contract and certificate-holders thereby affected, for a period of not less than 12 months;
26 or with respect to individual subscriber contracts as an alternative to giving such
27 guarantee, such rate revision or new rate schedule may be made applicable to all
28 individual contracts at one time if the corporation chooses to apply for such relief with
29 respect to such contracts no more frequently than once in any 12-month period. Such
30 rate revision or new rate schedule shall be applicable to all contracts of the same type;
31 provided that no rate revision or new rate schedule may become effective for any
32 contract-holder unless the corporation has given written notice of the rate revision or
33 new rate schedule 45 days prior to the effective date of such revision or new rate
34 schedule. The contract-holder thereafter must pay the revised rate or new rate schedule
35 in order to continue the contract in force. The Commissioner may promulgate
36 reasonable rules, after notice and hearing, to require the submission of supporting data
37 and such information as is deemed necessary to determine whether such rate revisions
38 meet these standards."

39 Sec. 61. G.S. 57B-8(b)(2) is amended by deleting the period at the end and
40 by adding the following:

41 "; and must exhibit a reasonable relationship to the benefits provided by the evidence
42 of coverage. Such premiums or any revisions thereto shall be guaranteed, as to every
43 enrollee covered under the same category of enrollee coverage, for a period of not less
44 than 12 months; or as an alternative to giving such guarantee with respect only to

1 nongroup enrollee coverage, such premium or premium revisions may be made
2 applicable to all similar category of enrollee coverage at one time if the health
3 maintenance organization chooses to apply for such premium revision with respect to
4 such categories of coverages no more frequently than once in any 12-month period.
5 Such premium revision shall be applicable to all categories of nongroup enrollee
6 coverage of the same type; provided that no premium revision may become effective for
7 any category of enrollee coverage unless the corporation has given written notice of the
8 premium revision 45 days prior to the effective date of such revision. The enrollee
9 thereafter must pay the revised premium in order to continue the contract in force. The
10 Commissioner may promulgate reasonable rules, after notice and hearing, to require the
11 submission of supporting data and such information as is deemed necessary to
12 determine whether such rate revisions meet these standards."

13 Sec. 62. G.S. 58-576(b) reads as rewritten:

14 "(b) 'Retrospective compensation agreement' means any such arrangement,
15 agreement, or contract having as its purpose the actual or constructive retention by ~~the a~~
16 domestic insurer of a fixed proportion of the gross premiums, with the balance of the
17 premiums, retained actually or constructively by the agent or the producer of the
18 business, who assumes to pay therefrom all losses, all subordinate commissions, loss
19 adjustment expenses and his profit, if any, with other provisions of such arrangement,
20 agreement, or contract auxiliary or incidental to such purpose."

21 Sec. 63. G.S. 58-577(a) reads as rewritten:

22 **"§ 58-577. Management contracts.**

23 (a) All agreements or contracts under which any person is delegated management
24 duties or control of ~~an a~~ domestic insurer, or which transfer a substantial part of any
25 major function of ~~an a~~ domestic insurer such as adjustment of losses, production of
26 business, investment of assets, or general servicing of the insurer's business must be
27 filed with the Commissioner on or before the effective date of such contract or
28 agreement."

29 Sec. 64. G.S. 58-579 reads as rewritten:

30 **"§ 58-579. Supplement to financial statement.**

31 Any domestic insurer that has a management contract shall file with its financial
32 statement as supplement on forms prescribed by the Commissioner which discloses the
33 following: Salaries, commissions, or any valuable consideration paid to each officer
34 and director of the management company or to any shareholder who owns, directly or
35 indirectly, ten percent (10%) of the shares of either the managed insurer or the
36 management company. Any changes in the officers or directors of the managing
37 company are to be reported to the Commissioner."

38 Sec. 65. The title of Article 1 of Chapter 118 of the General Statutes and G.S.
39 118-1 and G.S. 118-2 through 118-5 read as rewritten:

40 **"ARTICLE 1.**

41 "Fund Derived from ~~Fire~~-Insurance Companies.

42 **"§ 118-1. ~~Fire-insurance~~-Insurance companies to report premiums collected.**

43 Every ~~fire~~-insurance company, corporation, or association doing business in any
44 town or city in North Carolina that has, or may hereafter have, a regularly organized fire

1 department under the control of the mayor and city council or other governing body of
2 said town or city, and which has in serviceable condition for fire duty apparatus and
3 equipment amounting in value to one thousand dollars (\$1,000) or more, and which
4 enforces the fire laws to the satisfaction of the Insurance Commissioner, shall return to
5 the Insurance Commissioner of the State of North Carolina a just and true account of all
6 premiums collected and received from all fire and lightning insurance business done
7 within the limits of such towns and cities during the year ending December 31, or such
8 portion thereof as ~~they~~it may have transacted such business in such towns and cities.
9 Such companies, corporations, or associations shall make said returns within 60 days
10 from and after the thirty-first day of December of each year.

11 **"§ 118-2. Tax on receipts for premiums.**

12 Every ~~fire~~ insurance company, corporation, or association as aforesaid shall, within
13 75 days from December 31 of each year, deliver and pay to the State Insurance
14 Commissioner the sum of fifty cents (50¢) out of and from every one hundred dollars
15 (\$100.00), and at that rate, upon the amount of all premiums written on fire and
16 lightning policies covering property situated within the limits of such towns and cities
17 during the year ending December 31 ~~in each year~~, or for such portion of each year as said
18 company, corporation, or association shall have done business in said towns and cities.

19 **"§ 118-3. Insurance Commissioner to investigate returns and collect tax.**

20 Every such company, corporation, or association shall make accurate returns of all
21 business done, ~~both on fire and lightning~~ insurance, covering property situated within the
22 limits of such towns and cities; and in case any fraud, misrepresentation, or mistake of
23 any returns, as provided for in this Article, be apparent, it shall be the duty of the
24 Insurance Commissioner to investigate such returns and collect the amount which he
25 shall find to be due.

26 **"§ 118-4. Penalty for failure to report and pay tax.**

27 Every ~~fire~~ insurance company, association, or corporation aforesaid which shall
28 knowingly or willfully fail or neglect to report or pay over any of the moneys due on
29 premiums as aforesaid, at the times and in the manner specified in this Article, or shall
30 be found upon examination to have made a false return of business done by ~~it~~them,
31 shall, after notice and opportunity for a hearing, for each offense forfeit and pay to the
32 Commissioner of Insurance the sum of ~~three hundred dollars (\$300.00)~~ one thousand
33 dollars (\$1,000) for the use and benefit of the fire department of such town or city, ~~to be~~
34 ~~recovered in a civil action in the name of the town or city.~~

35 **"§ 118-5. Disbursement of funds by Insurance Commissioner.**

36 The Insurance Commissioner shall deduct the sum of three percent (3%) from the
37 money so collected from the insurance companies, corporations, or association, as
38 aforesaid, and pay the same over to the treasurer of the State Firemen's Association for
39 general purposes. The Insurance Commissioner shall deduct the sum of two percent
40 (2%) from the money so collected from the insurance companies, corporations, or
41 associations, as aforesaid, and retain the same in the budget of the Department of
42 Insurance for the purpose of administering the disbursement of funds by the board of
43 trustees in accordance with the provisions of G.S. 118-7. The remainder of the money
44 so collected from the insurance companies, corporations, or associations, as aforesaid,

1 doing business in the ~~several~~ towns and cities in the State having or that may hereafter
2 have organized fire departments as provided in this Article, said Insurance
3 Commissioner shall pay to the treasurer of each town or city to be held by him as a
4 separate and distinct fund, and he shall immediately pay the same to the treasurer of the
5 local board of trustees upon his election and qualification, for the use of the board of
6 trustees of the firemen's local relief fund in each town or city, which board shall be
7 composed of five members, residents of said city or town as hereinafter provided for, to
8 be used by ~~them~~ it for the purposes as named in G.S. 118.7."

9 Sec. 66. This act is effective upon ratification.