

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 283**

Short Title: Property and Casualty Insurance Omnibus.-AB

(Public)

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Sponsors: Representative Nye.

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Referred to: Insurance.

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March 6, 2003

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE REAL PROPERTY WARRANTY COMPANIES TO CARRY  
2 CONTRACTUAL LIABILITY POLICIES; REQUIRE MOTOR VEHICLE AND  
3 HOME APPLIANCE SERVICE AGREEMENT COMPANIES TO USE A  
4 SPECIFIC FORMAT ON ALL WRITTEN MATERIALS SUBMITTED;  
5 MANDATE ALL REQUIRED SUBMISSIONS TO THE DEPARTMENT OF  
6 INSURANCE TO BE IN A SPECIFIC FORMAT IF IN WRITING; REQUIRE  
7 WARRANTY COMPANIES TO COMPLY WITH ARTICLE 1 OF CHAPTER 58  
8 OF THE GENERAL STATUTES; DEFINE MECHANICAL BREAKDOWN  
9 SERVICE AGREEMENTS AND REQUIRE ALL MECHANICAL BREAKDOWN  
10 SERVICE AGREEMENT COMPANIES TO COMPLY WITH ARTICLE 1 OF  
11 CHAPTER 58 OF THE GENERAL STATUTES AND WITH THE RULES  
12 REGARDING MOTOR VEHICLE AND HOME APPLIANCE SERVICE  
13 AGREEMENT COMPANIES; AND PROVIDE THAT A BAD CHECK  
14 CONSTITUTES NONPAYMENT OF PREMIUM OF A MOTOR VEHICLE  
15 LIABILITY INSURANCE POLICY.  
16

17 The General Assembly of North Carolina enacts:

18 **SECTION 1.** G.S. 58-1-20 is amended by adding a new subsection to read:

19 "(c) Real property warranty companies shall comply with the requirements of  
20 G.S. 58-1-36."

21 **SECTION 2.** G.S. 58-1-36 is amended by adding a new subsection to read:

22 "(e) Warranty companies, as defined in G.S. 58-1-15, 58-1-20, 58-1-25, and 58-1-  
23 30, shall comply with this section. The Commissioner may enforce compliance with this  
24 section using the provisions of Article 2 of this Chapter."

25 **SECTION 3.** G.S. 58-1-35 is amended by adding a new subsection to read:

26 "(m) If not submitted electronically, all contracts, literature, advertising materials,  
27 letters, and other documents submitted to the Department to comply with the filing  
28 requirements of this Chapter or an administrative rule adopted pursuant to this Chapter

1 shall be submitted on paper eight and one-half inches by eleven inches. Brochures and  
2 pamphlets shall not be stapled or bound."

3 **SECTION 4.** G.S. 58-3-150 is amended by adding a new subsection to read:

4 "(c) If not submitted electronically, all contracts, literature, advertising materials,  
5 letters, and other documents submitted to the Department to comply with the filing  
6 requirements of this Chapter or an administrative rule adopted pursuant to this Chapter  
7 shall be submitted on paper eight and one-half inches by eleven inches. Brochures and  
8 pamphlets shall not be stapled or bound."

9 **SECTION 5.** Article 1 of Chapter 58 of the General Statutes is amended by  
10 adding a new section to read:

11 "**§ 58-1-40. Mechanical breakdown service agreements.**

12 (a) Except as provided in subsection (c) of this section, all mechanical  
13 breakdown service agreement companies soliciting business in this State shall comply  
14 with G.S. 58-1-35 and G.S. 58-1-36.

15 (b) As used in this section, "mechanical breakdown service agreement  
16 companies" include any person that issues mechanical breakdown service agreements  
17 and is not a licensed insurer, and "mechanical breakdown service agreements" are  
18 applicable to mechanized equipment, including automobiles, riding mowers, scooters,  
19 generators, farm implements, logging equipment, road graders, bulldozers, and power  
20 equipment not licensed for road use, whether mobile or not.

21 (c) This section does not apply to performance guarantees, warranties,  
22 mechanical breakdown service agreements, or motor vehicle service agreements made  
23 by:

24 (1) A manufacturer.

25 (2) A distributor.

26 (3) A subsidiary of a manufacturer or distributor."

27 **SECTION 6.** G.S. 58-37-50 reads as rewritten:

28 "**§ 58-37-50. Termination of insurance.**

29 No member may terminate insurance to the extent that cession of a particular type of  
30 coverage and limits is available under the provisions of this Article except for the  
31 following reasons:

32 (1) Nonpayment of premium when due to the insurer or producing agent.  
33 A check tendered in payment of premium that is dishonored by the  
34 bank because the account on which the check is drawn contains  
35 insufficient funds or is a closed or nonexistent account constitutes  
36 nonpayment of premium.

37 (2) The named insured has become a nonresident of this State and would  
38 not otherwise be entitled to insurance on submission of new  
39 application under this Article.

40 (3) A member company has terminated an agency contract for reasons  
41 other than the quality of the agent's insureds or the agent has  
42 terminated the contract and such agent represented the company in  
43 taking the original application for insurance.

- 1           (4)    When the insurance contract has been cancelled pursuant to a power of  
2           attorney given a company licensed pursuant to the provisions of G.S.  
3           58-35-5.  
4           (5)    The named insured, at the time of renewal, fails to meet the  
5           requirements contained in the corporate charter, articles of  
6           incorporation, and/or bylaws of the insurer, when the insurer is a  
7           company organized for the sole purpose of providing members of an  
8           organization with insurance policies in North Carolina."  
9           **SECTION 7.** Sections 1 through 5 of this act become effective October 1,  
10       2003. The remainder of this act is effective when it becomes law.