GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2007-127
HOUSE BILL 737

AN ACT TO MAKE CHANGES IN THE LAWS RELATING TO THE MONITORING OF SOLVENCY OF INSURANCE COMPANIES AND OTHER RISK-BEARING ENTITIES REGULATED BY THE COMMISSIONER OF INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-7-15(17) reads as rewritten:

"(17) "Credit insurance," meaning indemnifying merchants or other persons extending credit against loss or damage resulting from the nonpayment of debts owed to them; and including the incidental power to acquire and dispose of debts so insured, and to collect any debts owed to the insurer or to any person so insured by the ~~insurer including without limiting the foregoing, mortgage guaranty insurance that is insurance against financial loss by reason of the nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond, or other evidence of indebtedness secured by a security interest, mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, or on such personal property as the Commissioner may from time to time approve.~~ insurer; and also including insurance where the debt is secured by a junior lien on real estate or where the debt is secured by a first lien on real estate as long as (i) the purpose of the debt being insured is not the purchase of the real estate and the insurance is limited to twenty-five percent (25%) of the insurer's aggregate insured risk outstanding, before reinsurance ceded or assumed or (ii) the insurance is not included within the definition of mortgage guaranty insurance."

SECTION 2. G.S. 58-7-15(22) reads as rewritten:

"(22) "Miscellaneous insurance," meaning insurance against any other casualty authorized by the charter of the company, not included in ~~subdivisions (1) to (21) of~~ this section, which is a proper subject of insurance."

SECTION 3. G.S. 58-7-15 is amended by adding a new subdivision to read:

"(23) "Mortgage guaranty insurance," meaning insurance against financial loss by reason of nonpayment of principal, interest, or other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness which constitutes, or is equivalent to, a first

lien or charge on the real estate, provided the improvement on the real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families."

SECTION 4. G.S. 58-7-75(4) reads as rewritten:

"(4) Stock Casualty and Fidelity and Surety Companies. – A stock corporation may be organized in the manner prescribed in this Chapter and licensed to do one or more of the kinds of insurance specified in G.S. 58-7-15 (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), ~~(21) and (22)~~ (21), (22), and (23) only when it has a paid-in capital of not less than one million dollars ($1,000,000) and a paid-in initial surplus of not less than one million five hundred thousand dollars ($1,500,000). Every such company shall at all times thereafter maintain a minimum capital of not less than one million dollars ($1,000,000) and a minimum surplus of at least two hundred fifty thousand dollars ($250,000)."

SECTION 5. G.S. 58-10-125 reads as rewritten:

"**§ 58-10-125. ~~Minimum policyholders position.~~ Policyholders position and capital and surplus requirements.**

(a) For the purpose of complying with G.S. 58-7-75, a mortgage guaranty insurer shall maintain at all times a minimum policyholders position ~~in the amount required by this section.~~ of not less than one twenty-fifth of the insurer's aggregate insured risk outstanding. The policyholders position shall be net of reinsurance ceded but shall include reinsurance assumed.

(b) If a mortgage guaranty insurer does not have the minimum amount of policyholders position required by this section it shall cease transacting new business until the time that its policyholders position is in compliance with this section.

(c) A mortgage guaranty insurer shall at all times maintain capital and surplus in the greater of the amount required by G.S. 58-7-75 or this section. ~~If a policy of mortgage guaranty insurance insures individual loans with a percentage claim settlement option on those loans, a mortgage guaranty insurer shall maintain a policyholders position based on each one hundred dollars ($100.00) of the face amount of the mortgage, the percentage coverage, and the loan-to-value category. The minimum amount of policyholders position shall be calculated in the following manner:~~

~~(1) If the loan-to-value is greater than seventy-five percent (75%), the minimum policyholders position per one hundred dollars ($100.00) of the face amount of the mortgage for the specific percent coverage shall be as shown in the schedule below:~~

~~Percent Coverage~~	~~Policyholders Position Per $100 of the Face Amount of the Mortgage~~	~~Percent Coverage~~	~~Policyholders Position Per $100 of the Face Amount of the Mortgage~~
~~5~~	~~$0.20~~	~~55~~	~~$1.50~~
~~10~~	~~0.40~~	~~60~~	~~1.55~~

15	0.60	65	1.60
20	0.80	70	1.65
25	1.00	75	1.75
30	1.10	80	1.80
35	1.20	85	1.85
40	1.30	90	1.90
45	1.35	95	1.95
50	1.40	100	2.00

(2) If the loan-to-value is at least fifty percent (50%) and not more than seventy-five percent (75%), the minimum amount of the policyholders position shall be fifty percent (50%) of the minimum of the amount calculated under subdivision (c)(1) of this section.

(3) If the loan-to-value is less than fifty percent (50%), the minimum amount of policyholders position shall be twenty-five percent (25%) of the amount calculated under subdivision (c)(1) of this section.

(d) If a policy of mortgage guaranty insurance provides coverage on a group of loans subject to an aggregate loss limit, the policyholders position shall be:

(1) If the equity is not more than fifty percent (50%) and is at least twenty percent (20%), or equity plus prior insurance or a deductible is at least twenty-five percent (25%) and not more than fifty-five percent (55%), the minimum amount of policyholders position shall be calculated as follows:

Percent Coverage	Policyholders Position Per $100 of the Face Amount of the Mortgage	Percent Coverage	Policyholders Position Per $100 of the Face Amount of the Mortgage
1	$0.30	50	$0.825
5	0.50	60	0.85
10	0.60	70	0.875
15	0.65	75	0.90
20	0.70	80	0.925
25	0.75	90	0.95
30	0.775	100	1.00
40	0.80		

(2) If the equity is less than twenty percent (20%), or the equity plus prior insurance or a deductible is less than twenty-five percent (25%), the minimum amount of policyholders position shall be two hundred percent (200%) of the amount required by subdivision (d)(1) of this section.

(3) If the equity is more than fifty percent (50%) or the equity plus prior insurance or a deductible is more than fifty-five percent (55%), the

~~minimum amount of policyholders position shall be fifty percent (50%) of the amount required by subdivision (d)(1) of this section.~~

~~(e) If a policy of mortgage guaranty insurance provides for layers of coverage, deductibles, or excess reinsurance, the minimum amount of policyholders position shall be computed by subtraction of the minimum position for the lower percentage coverage limit from the minimum position for the upper or greater coverage limit.~~

~~(f) If a policy of mortgage guaranty insurance provides for coverage on loans secured by junior liens, the policyholders position shall be:~~

~~(1) If the policy provides coverage on individual loans, the minimum amount of policyholders position shall be calculated as in subsection (c) of this section as follows:~~

~~a. The loan-to-value percent is the entire loan indebtedness on the property divided by the value of the property;~~

~~b. The percent coverage is the insured portion of the junior loan divided by the entire loan indebtedness on the collateral property; and~~

~~c. The face amount of the insured mortgage is the entire loan indebtedness on the property.~~

~~(2) If the policy provides coverage on a group of loans subject to an aggregate loss limit, the policyholders position shall be calculated according to subsection (d) of this section as follows:~~

~~a. The equity is the complement of the loan-to-value percent calculated as in subdivision (d)(1) of this section;~~

~~b. The percent coverage is calculated as in subdivision (d)(1) of this section; and~~

~~c. The face amount of the insured mortgage is the entire loan indebtedness on the property.~~

~~(g) If a policy of mortgage guaranty insurance provides for coverage on leases, the policyholders position shall be four dollars ($4.00) for each one hundred dollars ($100.00) of the insured amount of the lease.~~

~~(h) If a policy of mortgage guaranty insurance insures loans with a percentage loss settlement option coverage between any of the entries in the schedules in this section, then the factor for policyholders position per one hundred dollars ($100.00) of the face amount of the mortgage shall be prorated between the factors for the nearest percent coverage listed.~~"

SECTION 6. G.S. 58-10-135 reads as rewritten:

"**§ 58-10-135. Contingency ~~reserve.~~ reserve for mortgage guaranty insurers.**

(a) Subject to G.S. 58-7-21, a mortgage guaranty insurer shall make an annual contribution to the contingency reserve which in the aggregate shall be ~~the greater of:~~

~~(1)~~ ~~Fifty~~ fifty percent (50%) of the net earned mortgage guaranty premium reported in the annual ~~statement; or~~ statement.

~~(2) The sum of:~~

~~a. The policyholders position established under G.S. 58-10-125 on residential buildings designed for occupancy by not more than four families divided by seven;~~

~~b. The policyholders position established under G.S. 58-10-125 on residential buildings designed for occupancy by five or more families divided by five;~~

~~c. The policyholders position established under G.S. 58-10-125 on buildings occupied for industrial or commercial purposes divided by three; and~~

~~d. The policyholders position established under G.S. 58-10-125 for leases divided by 10.~~

~~(b) If the mortgage guaranty coverage is not expressly provided for in this section, the Commissioner may establish a rate formula factor that will produce a contingency reserve adequate for the risk assumed.~~

(c) The contingency reserve established by this section shall be maintained for 120 months and reported in the financial statements as a liability. That portion of the contingency reserve established and maintained for more than 120 months shall be released and shall no longer constitute part of the contingency reserve.

(d) With the approval of the Commissioner, withdrawals may be made from the contingency reserve when incurred losses and incurred loss expenses exceed ~~the greater of either~~ thirty-five percent (35%) of the net earned ~~premium or seventy percent (70%) of the amount which subsection (a) of this section requires to be contributed to the contingency reserve in such year.~~ premium. On a quarterly basis, provisional withdrawals may be made from the contingency reserve in an amount not to exceed seventy-five percent (75%) of the withdrawal calculated in accordance with this subsection.

(e) With the approval of the Commissioner, a mortgage guaranty insurer may withdraw from the contingency reserve any amounts which are in excess of the minimum policyholders position as filed with the most recently filed annual statement. In reviewing a request for withdrawal pursuant to this subsection, the Commissioner may consider loss development and trends. If any portion of the contingency reserve for which withdrawal is requested pursuant to this subsection is maintained by a reinsurer, the Commissioner may also consider the financial condition of the reinsurer. If any portion of the contingency reserve for which withdrawal is requested pursuant to this subsection is maintained in a segregated account or segregated trust and such withdrawal would result in funds being removed from the segregated account or segregated trust, the Commissioner may also consider the financial condition of the reinsurer.

(f) Releases and withdrawals from the contingency reserve shall be accounted for on a first-in-first-out basis as prescribed by the Commissioner.

(g) The calculations to develop the contingency reserve shall be made in the following sequence:

(1) The additions required by ~~subsections (a) and (b)~~ subsection (a) of this section;

(2) The releases permitted by subsection (c) of this section;
(3) The withdrawals permitted by subsection (d) of this section; and
(4) The withdrawals permitted by subsection (e) of this section.

(h) Whenever the laws or regulations of another jurisdiction in which a mortgage guaranty insurer, subject to the requirements of this Part is licensed, require a larger unearned premium reserve or a larger contingency reserve in the aggregate than that set forth in this Part, the establishment and maintenance of the larger unearned premium reserve or contingency reserve shall be deemed to be in compliance with this Part."

SECTION 7. Part 5 of Article 10 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-10-145. Mono-line requirement for mortgage guaranty insurers.**

A mortgage guaranty insurance company that transacts any kind of insurance other than mortgage guaranty insurance is not eligible to transact business in this State. Provided, however, that a mortgage guaranty insurance company may, until December 31, 2012, assume reinsurance for "credit insurance," as defined in G.S. 58-7-15(17)."

SECTION 8. G.S. 58-7-200(e) reads as rewritten:

"(e) Nothing in this section prohibits:

(1) A director or officer of any insurer from receiving the usual salary, compensation, or emoluments for services rendered in the ordinary course of that person's duties as a director or officer, if the salary, compensation, or emolument is authorized by vote of the board of directors of the insurer;
(2) Any insurer in connection with the relocation of the place of employment of an officer, including any relocation in connection with the initial employment of the officer, from (i) making, or the officer from accepting therefrom, a mortgage loan to the officer on real property owned by the officer that is to serve as the officer's residence or (ii) acquiring, or the officer from selling thereto, at not more than its fair market value, the officer's prior residence;
(3) The payment to a director or officer of any such insurer who is a licensed attorney-at-law of fees in connection with loans made by the insurer if and when the fees are paid by the borrower and do not constitute a charge against the insurer; ~~or~~
(4) An insurer from making a loan upon a policy held therein by the borrower not in excess of the policy's net ~~value.~~ value; or
(5) Subject to G.S. 58-19-30 and G.S. 58-7-163, an insurer from advancing funds to directors, officers, or controlling stockholders, for expenses reasonably expected to be incurred in the ordinary course of the insurer's business, as authorized or approved by the insurer's board of directors or by individuals authorized by the board and charged with the supervision or making of the advances."

SECTION 9. G.S. 58-30-10 reads as rewritten:

"**§ 58-30-10. Definitions.**

~~As used in this Article, unless the context clearly indicates otherwise:~~ For the purposes of this Article only:

…

(14) "Insurer" means any entity that is or should be licensed under Articles 7, 16, 26, 47, 49, 64, 65, or 67 of this ~~Chapter or under Article 5 of Chapter 97 of the General Statutes. For the purposes of this Article, "insurer" also includes continuing care retirement communities that are or should be licensed under Article 64 of this~~ Chapter.

…."

SECTION 10. G.S. 58-2-240(c) reads as rewritten:

"(c) For purposes of subdivisions (b)(1) and (b)(1a) of this section only, the term "insurer" has the same meaning as in G.S. 58-30-10(14) and includes a:

(1) Reciprocal that is or should be licensed under Article 15 of this Chapter.

(2) Local government risk pool that chooses to operate under Article 23 of this Chapter.

(3) Fraternal benefit society that is or should be licensed under Article 24 of this Chapter.

(4) ~~Professional employer organization that is or should be licensed under Article 89A of this Chapter.~~ Self-insurer that is or should be licensed under Article 5 of Chapter 97 of the General Statutes."

SECTION 11. G.S. 58-47-65(a) reads as rewritten:

"(a) No group shall self-insure its workers' compensation liabilities under the Act unless it is licensed by the Commissioner under this Part. ~~This subsection does not apply to a group~~ Any self-insured group that was organized and approved under the North Carolina law before July 1, 1995, and whose authority to self-insure its workers' compensation liabilities under the Act has not terminated after that ~~date.~~ date, shall not be required to be reapproved to be licensed under this Article."

SECTION 12. G.S. 58-89A-5(16) reads as rewritten:

"(16) "Professional employer services" means an arrangement by which employees of a licensee are assigned to work at a client company and in which employment responsibilities are in fact shared by the licensee and the client company in accordance with G.S. 58-89A-100, the employee's assignment is intended to be of a long-term or continuing nature, rather than temporary or seasonal in ~~nature, and a majority of the workforce at a client company work site or a majority of the personnel of a specialized group within that workforce consists of assigned employees of the licensee.~~ nature. "Professional employer services" does not include services that provide temporary employees or independent contractors, a personnel placement service, managed services, payroll services that do not involve employee staffing or leasing, the sharing of employees by commonly owned companies within the meaning of section 414(b) and (c) of the Internal Revenue

Code of 1986, as amended, or similar groups that do not meet the requirements of this subdivision."

SECTION 13. G.S. 58-89A-30 reads as rewritten:

"**§ 58-89A-30. Other provisions of this chapter.**

G.S. 58-2-45, 58-2-50, 58-2-55, 58-2-60, 58-2-65, 58-2-69, 58-2-70, 58-2-75, 58-2-100, 58-2-155, 58-2-163, 58-2-180, 58-2-185, 58-2-200, 58-2-240, and 58-3-100 shall apply to all persons licensed under this Article and all persons subject to licensure requirements under this Article."

SECTION 14. G.S. 58-89A-75 reads as rewritten:

"**§ 58-89A-75. De minimus registration.**

(a) A person who seeks to offer limited professional employer services in this State shall be eligible for de minimis registration status upon compliance with this section and may operate as a de minimis registrant in this State upon notification pursuant to this section. A person shall satisfy the requirements for a de minimis registration only if the professional employer organization:

(1) Does not maintain a physical professional employer organization office located in this State;

(2) Does not employ salespersons who reside or direct their sales activities in this State;

(3) Does not employ directly or in common control with another person, as defined in G.S. 58-89A-5(12), more than 50 assigned employees in this State;

(4) Does not advertise through any media outlet physically located in this State;

(5) Is a licensed or registered professional employer organization in at least one other state of the United States; and

(6) Is operated by and under the control of persons of good moral character.

A professional employer organization operating under a de minimis registration shall be subject to all of the responsibilities and authority of a licensee under this Article except for G.S. 58-89A-50, 58-89A-60 and 58-89A-70(c), (d), and (e).

(b) A person seeking de minimis registration status shall notify the Commissioner, on a form prescribed by the Commissioner, attesting that the professional employer organization meets all of the eligibility requirements for de minimis registration status under this section and additionally provide, at a minimum, the following information:

(1) The name of the professional employer organization, the address of its principal office, the name of the contact person, and the taxpayer or employer identification number;

(2) A list by jurisdiction of each name under which the registrant has operated in the preceding five years, including any alternative names, names of predecessors, and, if known, successor business entities;

(3) A list of all officers, directors, and controlling person(s) of the registrant and their biographical information in a form to be determined by the Commissioner; and

(4) The location of the business records of the person.

(c) If the Commissioner finds that the person seeking de minimis registration has not fully met the requirements for de minimis registration, the person shall not be eligible for de minimis registration status, and the Commissioner shall notify the person in writing. Within 30 days after service of the notification, the person may make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action. The review shall be completed without undue delay, and the person shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the person may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the person disagrees with the outcome.

(d) If the Commissioner determines that the notification of eligibility for de minimis registration is incomplete, the Commissioner shall notify the person of the deficiency, and the registrant shall be allowed time, not to exceed ~~15~~ 30 days from the date of the notice, to correct the deficiency. Failure of the person to correct the deficiency within the ~~15-day~~ 30-day time period shall result in the de minimis being deemed denied. Except as otherwise provided in this section, a person notified of a deficiency under this section may continue to operate while the deficiency is being corrected unless the Commissioner determines that the person is ineligible for de minimis registration status or is otherwise not authorized to operate in this State.

(e) After a de minimis registrant's initial notification, a de minimis registrant shall annually notify the Commissioner of its continuing eligibility for de minimis registration status no earlier than January 1 and no later than January 15 of each year. The annual notification shall include the attestation of eligibility for de minimis registration and any change in the information previously provided to the Commissioner under this section.

(f) A person operating under a de minimis registration to engage in professional employer services in North Carolina that ceases to satisfy any of the requirements for de minimis registration under this section shall apply for a professional employer organization license. The de minimis registrant may continue to operate in North Carolina pending approval of the registrant's application for a license provided the application is filed with the Commissioner no later than 30 days after the professional employer organization becomes ineligible for de minimis registration. If the application for licensure is denied or is not filed as prescribed in this section, the de minimis registrant must cease engaging in professional employer services in North Carolina."

SECTION 15. Article 10 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 6. Property and Casualty Actuarial Opinions.

"**§ 58-10-150. Statement of actuarial opinion.**

Every property and casualty insurance company doing business in this State, unless otherwise exempted by the Commissioner, shall annually submit the opinion of an

appointed actuary entitled, "statement of actuarial opinion." This opinion shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions.

"**§ 58-10-155. Actuarial opinion summary.**

(a) Every property and casualty insurance company domiciled in this State that is required to submit a statement of actuarial opinion shall annually submit an actuarial opinion summary, written by the company's appointed actuary. This actuarial opinion summary shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be considered as a document supporting the statement of actuarial opinion required in G.S. 58-10-150.

(b) A company licensed but not domiciled in this State, and a company writing business in this State although not specifically licensed to do so or otherwise authorized, shall provide the actuarial opinion summary upon request.

"**§ 58-10-160. Actuarial report and work papers.**

(a) An actuarial report and underlying work papers as required by the appropriate NAIC Property and Casualty Annual Statement Instructions shall be prepared to support each statement of actuarial opinion and actuarial opinion summary.

(b) If an insurance company fails to provide a supporting actuarial report or work papers at the request of the Commissioner or if the Commissioner determines that the supporting actuarial report or work papers provided by an insurance company are unsatisfactory to the Commissioner, the Commissioner may engage an independent, qualified actuary at the expense of the company to (i) review the opinion and the basis for the opinion and (ii) prepare an actuarial report or work papers.

"**§ 58-10-165. Monetary penalties for failure to provide documents.**

A company that fails to provide a statement of actuarial opinion, actuarial opinion summary, actuarial report, or work papers within the time frame provided in the Commissioner's written request, is subject to the monetary penalties set forth in G.S. 58-2-70.

"**§ 58-10-170. Qualified immunity of appointed actuary.**

The appointed actuary shall not be liable for damages to any person other than the insurance company or the Commissioner for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion, except in cases of fraud or willful misconduct by the appointed actuary.

"**§ 58-10-175. Confidentiality.**

(a) The statement of actuarial opinion shall be treated as a public record.

(b) Documents, materials, or other information in the possession or control of the Department that are considered an actuarial opinion summary, actuarial report, or work papers provided in support of the opinion, and any other material provided by the company to the Commissioner in connection with the actuarial opinion summary, actuarial report, or work papers shall be confidential by law and privileged, in accord with G.S. 58-2-240, shall not be subject to G.S. 58-2-100, shall not be subject to subpoena, and shall not be subject to discovery or admissible as evidence in any private civil action.

(c) Subsection (b) of this section shall not be construed to limit the Commissioner's authority to release documents to the Actuarial Board for Counseling and Discipline if the documents are required for the purpose of professional disciplinary proceedings and if the Actuarial Board for Counseling and Discipline establishes procedures satisfactory to the Commissioner for preserving the confidentiality of the documents. In addition, this section shall not be construed to limit the Commissioner's authority to use any documents, materials, or other information in furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.

(d) Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (b) of this section.

(e) In order to assist in the performance of the Commissioner's duties, the Commissioner:

(1) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (b) of this section with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information and has the legal authority to maintain confidentiality.

(2) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(3) May enter into agreements governing the sharing and use of information consistent with this section.

(f) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (e) of this section."

SECTION 16. G.S. 58-67-100 reads as rewritten:

"**§ 58-67-100. Examinations.**

(a) The Commissioner may make an examination of the affairs of any health maintenance organization and the contracts, agreements or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary for the protection of the interests of the people of this State but not less frequently than once

every ~~three~~ five years. Examinations shall otherwise be conducted under G.S. 58-2-131 through G.S. 58-2-134.

(b) Repealed by Session Laws 1997-519, s. 1.

(c) Repealed by Session Laws 1995, c. 360, s. 2(m).

(d) Instead of conducting an examination, the Commissioner may accept the report of an examination made by the HMO regulator of another state."

SECTION 17. G.S. 58-58-50(b) reads as rewritten:

"(b) ~~The Commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this State, except that in the case of an alien company, such valuation shall be limited to its United States business, and may certify the amount of such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. Group methods and approximate averages for fractions of a year or otherwise may be used in calculating such reserves and the valuation made by the company may be accepted by the Commissioner upon such evidence of its correctness as the Commissioner may require. In lieu of the valuation of the reserves herein required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the Commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.~~ Each year the Commissioner shall value or cause to be valued the reserve liabilities ("reserves") for all outstanding life insurance policies, annuity contracts, and pure endowment contracts of every life insurance company doing business in this State. In the case of an alien company, the valuation shall be limited to its United States business. The Commissioner may certify the amount of each company's reserves, specifying the mortality or morbidity tables, withdrawal rates, and other assumptions regarding when, and the degree to which, policyholders exercise contract options, such as full or partial withdrawal, rate or rates of interest, and methods, such as net level premium method or other, used in the Commissioner's calculation of the company's reserves. Group methods and approximate averages for fractions of a year or otherwise may be used by the Commissioner in calculating the company's reserves, and the Commissioner may accept the valuation made by the company upon evidence of its correctness that the Commissioner requires. For foreign or alien insurance companies, the Commissioner may accept any valuation made or caused to be made by the insurance regulator of any state or other jurisdiction if (i) that valuation complies with the minimum standard provided in this section and (ii) that regulator accepts as legally sufficient and valid the Commissioner's certificate of valuation when that certificate states that the valuation has been made in a specified manner according to which the

aggregate reserves would be at least as great as if they had been computed in the manner prescribed by the law of that state or jurisdiction."

SECTION 18. G.S. 58-58-50(l) reads as rewritten:

"(l) The Commissioner may adopt rules for life insurers for the following matters:

(1) Reserves for contracts issued by insurers.

(2) Optional smoker-nonsmoker mortality tables permitted for use in determining minimum reserve liabilities and nonforfeiture benefits.

(3) Optional blended gender mortality tables permitted for use in determining nonforfeiture benefits for individual life policies.

(4) Optional tables acceptable for use in determining reserves and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(5) Assumptions for policyholder withdrawal rates for use in determining minimum reserve liabilities.

In adopting these rules, the Commissioner may consider model laws and regulations promulgated and amended from time to time by the NAIC."

SECTION 19. Sections 1 through 7 of this act become effective July 1, 2007. Section 15 of this act becomes effective October 1, 2007. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 5:54 p.m. this 27th day of June, 2007