

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 485
SENATE BILL 512

AN ACT TO MAKE VARIOUS SUBSTANTIVE AND TECHNICAL CHANGES IN
THE INSURANCE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-28.3 is repealed.

Sec. 2. G.S. 58-340.38(a) reads as rewritten:

- "(a) Nothing contained in this Article shall be so construed as to affect or apply to:
- (1) Grand or subordinate lodges of societies, orders or associations now doing business in this State which provide benefits exclusively through local or subordinate lodges;
 - (2) Orders, societies or associations which admit to membership only persons engaged in one ~~or~~ or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;
 - (3) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than ~~four hundred dollars (\$400.00)~~ five hundred dollars (\$500.00) or disability benefits of not more than three hundred fifty dollars (\$350.00) to any one person in any one year, or both; or
 - (4) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than ~~four hundred dollars (\$400.00)~~ five hundred dollars (\$500.00) or for disability benefits of not more than three hundred fifty dollars (\$350.00) to any one person in any one year, or both."

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

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

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

- "(b) Each application for the issuance or renewal of a certificate shall be accompanied by a filing fee of twenty dollars (\$20.00) and evidence of maintenance of

a fidelity bond of not less than one hundred thousand dollars (\$100,000) surety bond in an amount to be determined by rules adopted by the Commissioner."

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

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

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

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

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

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

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

Sec. 9. G.S. 58-54 reads as rewritten:

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

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

(b) As to group and blanket accident and health insurance and group life insurance policies issued and delivered to a trust outside of this State and covering persons resident in this State, the group certificates to be delivered or issued for delivery

in this State shall be filed with and approved by the Commissioner pursuant to subsection (a) of this section."

Sec. 10. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

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

(a) This section applies to the provisions of all group life, group accident, group health, and group accident and health insurance policies and group annuities under this Chapter that are issued on or after October 1, 1989, and preferred provider arrangements under this Chapter that are entered into on or after October 1, 1989.

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

Sec. 11. Article 1 of Chapter 57 of the General Statutes is amended by adding a new section to read:

"§ 57-1.3. Meaning of terms 'accident', 'accidental injury', and 'accidental means'.

(a) This section applies to the provisions of all subscriber contracts under this Chapter that are issued on or after October 1, 1989, and preferred provider arrangements under this Chapter that are entered into on or after October 1, 1989.

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

Sec. 12. Chapter 57B of the General Statutes is amended by adding a new section to read:

"§ 57B-2.1. Meaning of terms 'accident', 'accidental injury', and 'accidental means'.

(a) Effective October 1, 1989, this section applies to all health maintenance organization plans under this Chapter.

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

Sec. 13. Article 32 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-360. Automobile physical damage insurance.

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

- (1) Such insurance may be written only on a motor vehicle on which there is a valid inspection sticker.
- (2) If a motor vehicle is already insured and the lender is named loss payee and that insurance continues in force, then no other physical damage insurance may be written.
- (3) Notification must be given orally and in writing to the borrower that he has the option to provide his own insurance coverage at any point during the term of the loan.

- (4) The creditor must have either a first or second lien on the motor vehicle to be insured.
- (5) The amount of insurance coverage may not exceed the lesser of (i) the principal amount of the loan plus allowable charges, excluding interest, plus two scheduled installment payments or (ii) the actual fair market value of the collateral at the time the insurance is written.
- (6) When a creditor accepts other collateral in addition to a motor vehicle as herein defined, the combined insurance on all collateral may not exceed the initial indebtedness of the loan.

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

Sec. 14. G.S. 58-54.24 reads as rewritten:

"§ 58-54.24. Commissioner authorized to seek injunctions against unauthorized insurers. Cease and desist orders.

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

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

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

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

Sec. 15. Article 3C of Chapter 58 of the General Statutes is amended by adding the following new sections:

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

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

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

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

- (1) Upon the expiration of the time allowed for filing a petition for review if no such petition has been duly filed within such time; except that the Commissioner may thereafter modify or set aside his order to the extent provided in G.S. 58-54.24(b); or
- (2) Upon the final decision of the Court if the court directs that the order of the Commissioner be affirmed or the petition for review dismissed.

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

"§ 58-54.24B. Penalty.

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

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

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

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

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

Sec. 17. G.S. 58-614(c)(4) and G.S. 58-614(c)(6) are repealed.

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

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

Sec. 19. G.S. 58-614(e) reads as rewritten:

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

- (1) ~~Variable Contracts~~
- (2) ~~Ocean Marine~~
- (3) Credit Life, Accident and Health
- (4) Credit
- (5) Travel Accident and Baggage
- (6) Motor Club
- (7) Dental Service".

Sec. 20. G.S. 58-614 is amended by adding a new subsection to read:

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

Sec. 21. G.S. 58-615(d)(2) reads as rewritten:

"(2) All individual applicants for licensing as life, accident and health agents or as fire and casualty agents shall furnish evidence satisfactory to the Commissioner of successful completion of at least 40 hours of instruction, which shall in all cases include the general principles of insurance and any other topics that the Commissioner establishes by regulation; and which shall, in the case of life, accident and health insurance applicants, include the principles of life, accident, and health insurance and, in the case of fire and casualty insurance applicants, shall include instruction in fire and casualty insurance. Any applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a fire and casualty or life or health insurance company admitted to do business in this State or a professional insurance association shall be deemed to have satisfied

the educational requirements of this subdivision. The requirement in this subdivision for completion of 40 hours of instruction applies only to applicants for life, accident and health or fire and casualty insurance licenses. The provisions of this subdivision also apply to applicants for accident and health insurance licenses; except that such applicants shall be required to successfully complete 20 hours of instruction. Such instruction shall in all cases include the general principles of insurance and the principles of accident and health insurance."

Sec. 22. G.S. 58-30.3 is amended by adding the following subsection:

"(c) No insurer shall refuse to insure or refuse to continue to insure an individual; limit the amount, extent, or kind of coverage available to an individual; or charge an individual a different rate for the same coverage, because of the race, color, or national or ethnic origin of that individual. This subsection supplements the provisions of G.S. 58-54.4(7)."

Sec. 23. Article 1 of Chapter 57 of the General Statutes is amended by adding a new section to read:

"§ 57-1.4. Discriminatory practices prohibited.

No person subject to this Chapter shall refuse to issue or refuse to reissue to an individual any certificate, plan, or contract governed by this Chapter; limit the amount, extent, or kind of services available to an individual; or charge an individual a different rate for the same services, because of the race, color, or national or ethnic origin of that individual."

Sec. 24. G.S. 57B-12 is amended by adding a new subsection to read:

"(f) No health maintenance organization shall refuse to enroll an individual or refuse to continue enrollment of an individual in a health care plan; limit the amount, extent, or kinds of health care plans available to an individual; or charge an individual a different rate for the same health care plan, because of the race, color, or national or ethnic origin of that individual."

Sec. 25. G.S. 58-42.1 reads as rewritten:

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

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

Sec. 26. G.S. 58-173.8(a) reads as rewritten:

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

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

Sec. 27. G.S. 97-133(a)(3) reads as rewritten:

"(3) Administer a fund, to be known as the North Carolina Self-Insurance Guaranty Fund, which shall receive the assessments required in subdivision (2) of this subsection. Once the Fund reaches one million dollars (\$1,000,000), no further assessments shall be made except initial assessments of new member self-insurers that are required to be made in subdivision (2)d. of this subsection. Assessments may be subsequently made only to maintain the Fund at a level of one million dollars (\$1,000,000). In its discretion, the Board may determine that the assets of the Fund should be segregated, or, that a separate accounting shall be made, in order to identify that portion of the Fund which represents assessments paid by individual self-insurers and that portion of the Fund which represents assessments paid by group self-insurers. If the Board determines to segregate the Fund in this manner, the Association shall thereafter pay covered claims against individual member self-insurers from that portion of the Fund which represents assessments against individual self-insurers and shall thereafter pay covered claims against group member self-insurers from that portion of the Fund which represents assessments against group self-insurers. The cost of administration incurred by the Association shall be borne by the Fund and the Association is authorized to secure reinsurance and bonds and to otherwise invest the assets of the Fund to effectuate the purpose of the Association, subject to the approval of the Commissioner. All earnings from investment of Fund assets shall be placed in or credited to the Fund.

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

Sec. 28. G.S. 58-124.24 reads as rewritten:

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

Any member of the Bureau may appeal to the Commissioner from any decision of the Bureau ~~and the Commissioner shall, after~~. After a hearing held on not less than 10 days' written notice to the appellant and to the Bureau, the Commissioner shall issue an order approving the decision or directing of the Bureau or directing it to give further consideration to such proposal to reconsider the decision. In the event the Commissioner directs the Bureau to reconsider the decision and the Bureau fails to take satisfactory action satisfactory to the Commissioner, the Commissioner shall make such order as he may see fit."

Sec. 29. G.S. 58-9(1) reads as rewritten:

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

Sec. 30. Article 2 of Chapter 58 of the General Statutes is amended by adding new sections to read:

"§ 58-9.8. Designated hearing officers.

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

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

(a) Whenever it appears to the Commissioner that any person has violated, is violating, or threatens to violate any provision of this Chapter, Chapters 57, 57B, or 85C of the General Statutes, Article 9B or 9C of Chapter 66 of the General Statutes, or Article 9A of Chapter 143 of the General Statutes, he may apply to the superior court of

any county in which the violation has occurred, is occurring, or may occur for a restraining order and injunction to restrain such violation. If upon application the court finds that any provision of said statutes has been violated, is being violated, or a violation thereof is threatened, the court shall issue an order restraining and enjoining such violations; and such relief may be granted regardless of whether criminal prosecution is instituted under any provision of law.

(b) The conviction in any court of competent jurisdiction of any licensee for any criminal violation of the statutes referred to in subsection (a) of this section automatically has the effect of suspending the license of that person until such time that the license is reinstated by the Commissioner. As used in this subsection, 'conviction' includes an adjudication of guilt, a plea of guilty, and a plea of **nolo contendere**.

"§ 58-9.10. License surrenders.

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

Sec. 31. G.S. 58-618(c) reads as rewritten:

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

Sec. 32. G.S. 66-49.14 reads as rewritten:

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

~~Any applicant for a license or renewal of a license hereunder shall be entitled to a hearing before Whenever the Commissioner denies an initial application for a license, he shall notify the applicant and advise, in writing, the applicant of the reasons for the denial or nonrenewal of the license. Within 30 days of receipt of notification the ~~in the event~~ such application is denied or not acted upon within a reasonable time. Any applicant adversely affected by a determination of ~~may~~ make written demand upon the Commissioner ~~shall have a right to seek judicial review of such determination under the provisions and limitations of G.S. 58-9.3~~ for a hearing to determine the reasonableness of the Commissioner's action. Such hearing shall be scheduled within 30 days from the date of receipt of the written demand."~~

Sec. 33. G.S. 85C-18 reads as rewritten:

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

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

(b) Whenever the Commissioner denies an initial application for a license, he shall notify the applicant and advise, in writing, the applicant of the reasons for the denial of the license. Within 30 days of receipt of notification the applicant may make written demand upon the Commissioner for a hearing to determine the reasonableness of the Commissioner's action. Such hearing shall be scheduled within 30 days from the date of receipt of the written demand."

Sec. 34. G.S. 58-182.3, 58-182.4, 58-182.5, and 58-182.7 are each amended by substituting ", 58-182.1, and 58-182.9" for "and 58-182.1".

Sec. 35. Article 20 of Chapter 58 of the General Statutes is amended by adding new sections to read:

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

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

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

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

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

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

Sec. 36. G.S. 58-79.1(c) is amended by adding a new subdivision to read:

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

Sec. 37. G.S. 58-16 reads as rewritten:

"§ 58-16. Examinations to be made.

Before granting certificates of authority to an insurance company to issue policies or make contracts of insurance the Commissioner shall be satisfied, by such examination and evidence as he sees fit to make and require, that the company is otherwise duly qualified under the laws of the State to transact business therein. As often as once in three years ~~or, in the Commissioner's discretion, as often as once in five years~~ he shall personally or by his deputy visit each domestic insurance company and thoroughly inspect and examine its affairs, especially as to its financial condition and ability to fulfill its obligations and whether it has complied with the laws. He shall also make an examination of any such company whenever he deems it prudent to do so, or upon the request of five or more of the stockholders, creditors, policyholders, or persons pecuniarily interested therein, who shall make affidavit of their belief, with specifications of their reasons therefor, that the company is in an unsound condition. Whenever the Commissioner deems it prudent for the protection of policyholders in this State he shall in like manner visit and examine, or cause to be visited and examined by some competent person appointed by him for that purpose, any foreign insurance company applying for admission or already admitted to do business in this State. Any domestic or foreign company examined under this section shall pay the proper charges incurred in the examination, including the expenses of the Commissioner or his deputy and the expenses and compensation of his assistants employed therein. The refusal of any insurer to submit to examination, or the refusal or failure of an insurer to pay the expenses of examination upon presentation of a bill therefor by the Commissioner, shall be grounds for the revocation or refusal of a license. The Commissioner is authorized to make public any such revocation or refusal of license as he may determine and to give his reasons therefor. The Commissioner shall promptly institute a civil action to recover the expenses of examination against any insurer which refuses or fails to pay. For these purposes the Commissioner or his deputy or persons making the examination shall have free access to all the books and papers of the insurance company that relate to its business, and to the books and papers kept by any of its agents, or to the books and papers of any affiliated or subsidiary corporations or partnerships that affect the affairs or financial condition of said company and may summon, administer oaths to, and examine as witnesses, the directors, officers, agents, and trustees of any such company, and any other person, affiliate or subsidiary in relation to its affairs, transactions, and condition."

Sec. 38. Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

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

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

Sec. 39. G.S. 85C-11 reads as rewritten:

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

Before license can issue to an applicant permitting him to act as a professional bondsman or runner, he must furnish the Commissioner a complete set of his

fingerprints and a recent passport size full-face photograph of himself. The applicant's fingerprints shall be certified by an authorized law-enforcement officer.

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

- (1) Is 18 years of age or over;
- (2) Is a resident of this State;
- (3) Is a person of good moral character and has not been convicted of a felony or any crime involving moral turpitude;
- (4) Has knowledge, training, or experience of sufficient duration and extent to reasonably satisfy the Commissioner that he possesses the competence necessary to fulfill the responsibilities of a licensee;
- (5) Has no outstanding bail bond obligations;
- (6) Is not or has not been in violation of any provision of this Chapter or of Article 26 of Chapter 15A of the General Statutes or of any similar provision of law of any other state;
- (7) Has not been in any manner disqualified under the laws of this State or any other state to engage in the bail bond business."

Sec. 40. G.S. 85C-17(a) is amended by adding the following new subdivisions:

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

Sec. 41. G.S. 58-254.4(g) reads as rewritten:

"(g) Any policy or contract ~~of~~ group accident, group health or group accident and health insurance may provide for readjustment of the rate of premium based on the experience thereunder at the end of the first year, ~~or of any subsequent year of insurance thereunder, and such readjustment may be made retroactive only for such policy year or~~ at any time during any subsequent year based upon at least 12 months of experience: Provided that any such readjustment after the first year shall not be made any more frequently than once every six months. Any refund under any plan for readjustment of the rate of premium based on the experience under group policies and any dividend paid under such policies may be used to reduce the employer's or principal's contribution to group insurance for the employees of the employer, or the agents of the principal, and the excess over such contribution by the employer, or principal, shall be applied by the employer, or principal, for the sole benefit of the employees or agents."

Sec. 42. G.S. 85C-36 reads as rewritten:

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

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

Sec. 43. G.S. 85C-34 reads as rewritten:

"§ 85C-34. Monthly report required.

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

Sec. 44. G.S. 143-143.11 is amended by adding a new subsection to read:

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

Sec. 45. G.S. 143-143.13(c) reads as rewritten:

"(c) In addition to the authority to deny, suspend, or revoke a license under this Article, the Board also has the authority to impose a ~~five hundred dollar (\$500.00)~~ civil penalty upon any person violating the provisions of this Article. Upon a finding by the Board of a violation of this Article, the Board shall direct the payment of a penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). In determining the amount of the penalty, the Board shall consider the degree and extent of harm caused by the violation, the amount of money that inured to the benefit of the violator as a result of the violation, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with laws, rules, or orders applicable to the violator. Each day during which a violation occurs shall constitute a separate offense. The penalty shall be payable to the Board, which shall then forward the clear proceeds of which to the State Treasurer for deposit in the General Fund of the State. Payment of the civil penalty under this section shall be in addition to payment of any other penalty for a violation of the criminal laws of this State. Nothing in this subsection shall prevent the Board from negotiating a mutually acceptable agreement with any person as to the status of the person's license or certificate or as to any civil penalty."

Sec. 46. G.S. 58-9.7 reads as rewritten:

"§ 58-9.7. Civil penalties or restitution for violations; summary suspension of license or certificate.

(a) This section applies to any person who is subject to licensure or certification under the provisions of this Chapter, General Statutes Chapters 57, 57B or 85C, ~~Articles~~

or Article 9B or 9C of General Statutes Chapter 66, or Article 9B of General Statutes Chapter 143.

(b) Whenever the Commissioner has reason to believe that any person has violated any of the provisions of the statutes cited in subsection (a) of this section, and the violation subjects the license or certification of that person to suspension or revocation, or whenever the Commissioner has reason to believe that any person has violated Article 3A of this Chapter, the Commissioner may issue and serve upon that person a written statement of charges and a written notice of hearing, to be held at a time and place fixed in the notice. The date for the hearing shall not be less than 10 days after the date of service. It shall be sufficient to give such notice either by delivering it to the person charged or by sending the notice to the last known address of that person by certified mail, return receipt requested. At the time and place fixed for the hearing the person charged shall have an opportunity to answer the charges against him and present evidence on his behalf. Upon good cause shown, the Commissioner may permit any adversely affected person to intervene, appear, and be heard at the hearing by counsel or in person. The Commissioner may consolidate a hearing under this section with a hearing allowed under G.S. 58-54.6 where there is common subject matter involved and subject to procedural requirements set out in both sections being followed.

(c) In any case where a hearing pursuant to subsection (b) of this section results in the findings by the Commissioner of a ~~knowing~~ violation of any of the provisions of the statutes cited in subsection (a) of this section, and the violation subjects the license or certification of that person to suspension or revocation, or findings by the Commissioner of a ~~knowing~~ violation of Article 3A of this Chapter, the Commissioner may, in addition to or in lieu of suspending or revoking the license or certification, ~~apply to a court of competent jurisdiction for an order directing~~ order the payment of a monetary penalty as provided in subsection (d) of this section or apply to the Superior Court of Wake County for an order directing payment of restitution as provided in subsection (e) of this section, or both. Each day during which a violation occurs shall constitute a separate offense.

(d) Upon ~~application by the Commissioner and~~ a finding by the ~~court~~ Commissioner of a ~~knowing~~ violation as specified in subsection (c) of this section, the ~~court~~ Commissioner shall direct the payment of a penalty of not less than ~~five one~~ hundred dollars (~~\$500.00~~) (~~\$100.00~~) nor more than ~~forty one~~ thousand dollars (~~\$40,000~~) (~~\$1,000~~). in the discretion of the court. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation, the amount of money that inured to the benefit of the violator as a result of the violation, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with laws, rules, or orders applicable to the violator. The penalty shall be payable to the Commissioner, who shall then forward the clear proceeds of which to the State Treasurer for deposit in the General Fund of the State. Payment of the civil penalty under this section shall be in addition to payment of any other penalty for a violation of the ~~penal~~ criminal laws of this State.

(e) Upon application of the Commissioner and a finding by the court of a ~~knowing~~ violation as specified in subsection (c) of this section, the court may order the person who committed the violation to make restitution in an amount that would make whole any person harmed by the violation.

(f) Restitution to any State agency for extraordinary administrative expenses incurred in the investigation and hearing of the violation may also be ordered by the court in such amount that would reimburse the agency for the expenses.

(g) Nothing in this section shall prevent the Commissioner from negotiating a mutually acceptable agreement with any person as to the status of the person's license or certificate or as to any civil penalty or restitution.

(h) Notwithstanding subsection (b) of this section, if the Commissioner finds that the public health, safety, or welfare requires emergency action and incorporates this finding in his order, summary suspension of a license or certificate may be ordered effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and effective during the proceedings to suspend, revoke, or refuse renewal provided for in subsection (b) of this section. The proceedings shall be promptly commenced and determined."

Sec. 47. G.S. 58-56.2(b) reads as rewritten:

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

Sec. 48. G.S. 58-248.26(7) reads as rewritten:

"(7) 'Motor vehicle insurance' means direct insurance against liability arising out of the ownership, operation, maintenance or use of a motor vehicle for bodily injury including death and property damage and includes medical payments and uninsured motorist coverages.

With respect to motor carriers who are subject to the financial responsibility requirements established under the Motor Carrier Act of 1980, the term, 'motor vehicle insurance' includes coverage with respect to environmental restoration. As used in this subsection the term, 'environmental restoration' means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release, or escape into or upon the land, atmosphere, water course, or body of water of any commodity transported by a motor carrier. Environmental restoration includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage ~~or potential for damage~~ to human health, the natural environment, fish, shellfish, and wildlife."

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

"§ 58-150.1. Amendments to documents.

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

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

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

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

Be it known that, whereas (here the names of the subscribers to the articles of association shall be inserted) have associated themselves with the intention of forming a corporation under the name of (here the name of the corporation shall be inserted), for the purpose (here the purpose declared in the articles of association shall be inserted), with a capital (or with a permanent fund) of (here the amount of capital or permanent fund fixed in the articles of association shall be inserted), and have complied with the provisions of the statute of this State in such case made and provided, as appears from the following certified articles of association: (here copy articles of association and accompanying certificates). Now, therefore, I (here the name of the Secretary shall be inserted), Secretary of State, hereby certify that (here the names of the subscribers to the articles of association shall be inserted), their associates and successors, are legally organized and established as, and are hereby made, an existing corporation under the name of (here the name of the corporation shall be inserted), with such articles of association, and have all the powers, rights, and privileges and are subject to the duties, liabilities, and restrictions which by law appertain thereto.

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

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

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

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

"(h) In the event of the insolvency of an employer or insurance fiduciary who has violated this section, any person specified in subsection (e) of this section shall have a lien upon the assets of such employer or insurance fiduciary for the expenses or benefits specified in subsection (e) of this section. With respect to personal property within the estate of the insolvent employer or insurance fiduciary, such lien shall have priority over unperfected security interests."

Sec. 52. G.S. 58-626(b) reads as rewritten:

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

Sec. 53. G.S. 58-77(5)d, 58-124.28, 58-131.60, and 58-472(a) are each amended by substituting "six adjacent counties in this State" for "five counties in this State that are adjacent to the county in which its home office is located".

Sec. 54. G.S. 20-279.32 reads as written:

"§ 20-279.32. Exceptions.

This Article, except its provisions as to the filing of proof of financial responsibility by a common carrier and its drivers, does not apply to any vehicle operated under a permit or certificate of convenience or necessity issued by the North Carolina Utilities Commission, or by the Interstate Commerce Commission, if public liability and property damage insurance for the protection of the public is required to be carried upon it. This Article does not apply to any motor vehicle owned by the State of North Carolina, nor does it apply to the operator of a vehicle owned by the State of North Carolina who becomes involved in an accident while operating the state-owned vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the State. This Article does not apply to any motor vehicle owned by a county or municipality of the State of North Carolina, nor does it apply to the operator of a vehicle

owned by a county or municipality of the State of North Carolina who becomes involved in an accident while operating such vehicle in the course of the operator's employment as an employee or officer of the county or municipality. This Article does not apply to the operator of a vehicle owned by a political subdivision, other than a county or municipality, of the State of North Carolina who becomes involved in an accident while operating such vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the subdivision providing that the Commissioner finds that the political subdivision has waived any immunity it has with respect to such accidents and has in force an insurance policy or other method of satisfying claims which may arise out of the accident. This Article does not apply to any motor vehicle owned by the federal government, nor does it apply to the operator of a motor vehicle owned by the federal government who becomes involved in an accident while operating the government-owned vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the federal government."

Sec. 55. G.S. 58-251.2(a) is amended by deleting the third paragraph, which begins with "An insurer" and ends with "in force".

Sec. 56. G.S. 58-254.7 is amended by designating the present five paragraphs as subsections (a) through (e) and by adding a new subsection (f) to read:

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

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

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

Sec. 58. G.S. 57-4.1 is amended by inserting the following after the first sentence:

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

Sec. 59. G.S. 57B-8(b)(2) is amended by deleting the period at the end and by adding the following:

"; and must exhibit a reasonable relationship to the benefits provided by the evidence of coverage. Such premiums or any revisions thereto with respect to nongroup enrollee coverage shall be guaranteed, as to every enrollee covered under the same category of enrollee coverage, for a period of not less than 12 months; or as an alternative to giving such guarantee with respect only to nongroup enrollee coverage, such premium or premium revisions may be made applicable to all similar category of enrollee coverage at one time if the health maintenance organization chooses to apply for such premium revision with respect to such categories of coverages no more frequently than once in any 12-month period. Such premium revision shall be applicable to all categories of nongroup enrollee coverage of the same type; provided that no premium revision may become effective for any category of enrollee coverage unless the corporation has given written notice of the premium revision 45 days prior to the effective date of such revision. The enrollee thereafter must pay the revised premium in order to continue the contract in force. The Commissioner may promulgate reasonable rules, after notice and hearing, to require the submission of supporting data and such information as is deemed necessary to determine whether such rate revisions meet these standards."

Sec. 60. G.S. 58-576(b) reads as rewritten:

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

Sec. 61. G.S. 58-577(a) reads as rewritten:

"§ 58-577. Management contracts.

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

Sec. 62. G.S. 58-579 reads as rewritten:

"§ 58-579. Supplement to financial statement.

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

Sec. 63. The title of Article 1 of Chapter 118 of the General Statutes and G.S. 118-1 and G.S. 118-2 through 118-5 read as rewritten:

"ARTICLE 1.

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

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

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

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

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

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

Every such company, corporation, or association shall make accurate returns of all business done, ~~both~~ on fire and lightning insurance, covering property situated within

the limits of such towns and cities; and in case any fraud, misrepresentation, or mistake of any returns, as provided for in this Article, be apparent, it shall be the duty of the Insurance Commissioner to investigate such returns and collect the amount which he shall find to be due.

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

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

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

The Insurance Commissioner shall deduct the sum of three percent (3%) from the money so collected from the insurance companies, corporations, or association, as aforesaid, and pay the same over to the treasurer of the State Firemen's Association for general purposes. The Insurance Commissioner shall deduct the sum of two percent (2%) from the money so collected from the insurance companies, corporations, or associations, as aforesaid, and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 118-7. The remainder of the money so collected from the insurance companies, corporations, or associations, as aforesaid, doing business in the ~~several~~-towns and cities in the State having or that may hereafter have organized fire departments as provided in this Article, said Insurance Commissioner shall pay to the treasurer of each town or city to be held by him as a separate and distinct fund, and he shall immediately pay the same to the treasurer of the local board of trustees upon his election and qualification, for the use of the board of trustees of the firemen's local relief fund in each town or city, which board shall be composed of five members, residents of said city or town as hereinafter provided for, to be used by ~~them~~ it for the purposes as named in G.S. 118.7."

Sec. 64. G.S. 58-57.3(a) reads as rewritten:

"(a) No insurance premium finance company, and no employee of such a company shall pay, allow, or offer to pay or allow in any manner whatsoever to an insurance agent or any employee of an insurance agent, or to any other person, or as an inducement to the financing of an insurance policy with the insurance premium finance company or after any such policy has been financed, any rebate whatsoever, either from the service charge for financing specified in the insurance premium finance agreement or otherwise, or shall give or offer to give any valuable consideration or inducement of any kind directly or indirectly, other than an article of merchandise not exceeding one dollar (\$1.00) in value which shall have thereon the advertisement of the insurance premium finance company; but an insurance premium finance company may purchase or otherwise acquire an insurance premium finance agreement provided that it conforms to this Article in all respects, from another insurance premium finance company with or

without recourse against the insurance premium finance company on such terms and conditions as may be mutually agreed upon and such terms and conditions shall be subject to the approval of the Commissioner. A premium finance company may sell or transfer ownership of any premium finance agreement or power of attorney to cancel an insurance contract to another premium finance company as long as the terms and conditions of the sale or transfer are approved in writing by the Commissioner. Any consideration for such sale or transfer does not constitute a rebate or an inducement within the meaning of this section. The transferee company in such sale or transfer has the option of using the premium finance contract and forms of either the transferor company or of the transferee company, provided such forms have been approved by the Commissioner."

Sec. 65. G.S. 28A-19-3(i) reads as rewritten:

"(i) Nothing in this section shall bar:

- (1) Any claim alleging the liability of the decedent or personal representative; or
- (2) Any proceeding or action to establish the liability of the decedent or personal representative; or
- (3) The recovery on any judgment against the decedent or personal representative

to the extent that the decedent or personal representative is protected by insurance coverage with respect to such claim, proceeding or judgment or where there is underinsured or uninsured motorist coverage that might extend to such claim, proceeding, or judgment."

Sec. 66. G.S. 58-616(2) is repealed.

Sec. 67. In the event any provision of this act is held to be invalid by any court of competent jurisdiction, the court's holding as to that provision shall not affect the validity or operation of other provisions of this act; and to that end the provisions of this act are severable.

Sec. 68. Section 9 of this act shall become effective October 1, 1989. Section 58 of this act shall become effective January 1, 1990. The remainder of this act is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of June, 1989.