

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 339

Insurance Committee Substitute Adopted 5/13/91

House Committee Substitute Favorable 6/26/91

Short Title: Insurance Amendments.

(Public)

Sponsors:

Referred to:

March 28, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS SUBSTANTIVE AMENDMENTS TO THE INSURANCE LAWS AND OTHER LAWS RELATED TO THE DEPARTMENT OF INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-8-35 reads as rewritten:

"§ 58-8-35. Contingent liability printed on policy.

Every insurance company licensed to do business in this State shall print upon the filing face of its policies front of each policy and application in clear and explicit language the full contingent liability of its members. The language shall include the following statements printed in bold red type for each unlimited assessment policy: 'CAUTION: THIS IS AN ASSESSMENT POLICY. YOU MAY BE LIABLE FOR THE PAYMENT OF LOSSES, RESERVES, AND/OR EXPENSES INCURRED WHILE YOU ARE A MEMBER OF OUR ASSOCIATION.'

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

"§ 58-58-86. Insurable interest of charitable organizations.

If an organization described in section 501(c)(3) of the Internal Revenue Code purchases or receives by assignment, before, on, or after the effective date of this section, life insurance on an insured who consents to the purchase or assignment, the organization is deemed to have an insurable interest in the insured person's life."

Sec. 3. G.S. 58-58-90 reads as rewritten:

1 **"§ 58-58-90. ~~Construction of §§ 58~~ Construction.**

2 ~~Sections 58-58-75 to 58-58-85 shall not be construed to~~ G.S. 58-58-75, 58-58-80, 58-58-  
3 85, and 58-58-86 do not limit or abridge any insurable interest or right to insure now  
4 existing at common law or by statute, and shall be construed liberally to sustain  
5 insurable interest, whether as a declaration of existing law or as an extension of or  
6 addition to existing law."

7 Sec. 3.1. G.S. 58-31-60(b) reads as rewritten:

8 "(b) Appointment of Employee Insurance Committee Members. – The members  
9 of the Employee Insurance Committee shall be appointed by the head of the payroll  
10 unit. The Committee shall consist of not less than five or more than nine individuals a  
11 majority of whom have been employed in the payroll unit for at least one year. The  
12 committee members shall, except where necessary initially to establish the rotation  
13 herein prescribed, serve three-year terms with approximately one-third of the terms  
14 expiring annually. Committee membership make-up shall fairly represent the work  
15 force in the payroll unit and be selected without regard to any political or other  
16 affiliations. It shall be the duty of the payroll unit head to assure that the Employee  
17 Insurance Committee is completely autonomous in its selection of insurance products  
18 and insurance companies and that no member of the Employee Insurance Committee  
19 has any conflict of interest in serving on the Committee. A committee on employee  
20 benefits elected or appointed by the faculty representative body of a constituent  
21 institution of The University of North Carolina shall be deemed constituted and  
22 functioning as an employee insurance committee in accordance with this section. Any  
23 decision rendered by the Employee Insurance Committee where the autonomy of the  
24 Committee or a conflict of interest is questioned shall be subject to appeal pursuant to  
25 the Administrative Procedure Act, or in the case of departments, boards and  
26 commissions which are specifically exempt from the Administrative Procedure Act,  
27 pursuant to the appeals procedure prescribed for such department, board or commission.

28 All payroll units in existence on May 21, 1985, shall continue to be deemed payroll  
29 units, regardless of any subsequent consolidation of such payroll units, for purposes of  
30 the appointment of the members of the Employee Insurance Committee in order to  
31 assure such units the continuing ability to meet the needs and desires of the employees  
32 of such units by having the right to select insurance carriers and insurance products. No  
33 Employee Insurance Committee shall be created for employees represented by a  
34 previously existing committee. Any such duplicative Employee Insurance Committees  
35 are hereby disbanded. In the event of the consolidation of a payroll unit, the head of the  
36 former payroll unit shall appoint the members of the Committee in accordance with the  
37 provisions of this section."

38 Sec. 4. G.S. 58-41-50 is amended by adding a new subsection to read:

39 "(g) An insurer subject to this Article may develop and use an individual form or  
40 rate as a result of the uniqueness of a particular risk. The form or rate shall be  
41 developed, filed, and used in accordance with rules adopted by the Commissioner."

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

1 **"§ 58-43-5. Limitation as to amount and term; indemnity contracts for difference**  
2 **in actual value and cost of ~~replacement.~~ replacement; functional**  
3 **replacement.**

4 No insurance company or agent shall knowingly issue any fire insurance policy upon  
5 property within this State for an amount which, together with any existing insurance  
6 thereon, exceeds the fair value of the property, nor for a longer term than seven years:  
7 Provided, any fire insurance company authorized to transact business in this State may,  
8 by appropriate riders or endorsements or otherwise, provide insurance indemnifying the  
9 insured for the difference between the actual value of the insured property at the time  
10 any loss or damage occurs, and the amount actually expended to repair, rebuild or  
11 replace on the premises described in the policy, or some other location within the State  
12 of North Carolina with new materials of like size, kind and quality, ~~such property as that~~  
13 ~~has been damaged or destroyed by fire or other perils insured against.~~ Provided  
14 further, that the Commissioner may approve forms that permit functional replacement  
15 by the insurance company, at the insured's option. Functional replacement means to  
16 replace the property with property that performs the same function when replacement  
17 with materials of like size, kind, and quality is not possible, necessary, or less costly  
18 than obsolete, antique, or custom construction materials and methods. Forms and rating  
19 plans may also provide for credits when functional replacement cost coverage is  
20 provided. Policies issued in violation of this section are binding upon the company  
21 issuing them, but the company is liable for the forfeitures by law prescribed for such  
22 violation."

23 Sec. 6. G.S. 58-28-5(a) reads as rewritten:

24 "(a) Except as hereinafter provided, it shall be unlawful for any company to enter  
25 into a contract of insurance as an insurer or to transact insurance business in this State as  
26 set forth in G.S. 58-28-10, without a certificate of authority issued by the  
27 Commissioner. This section shall not apply to the following acts or transactions:

- 28 (1) The procuring of a policy of insurance upon a risk within this State  
29 where the applicant is unable to procure coverage in the open market  
30 with admitted companies and is otherwise in compliance with Article  
31 21 of this Chapter;
- 32 (2) Contracts of reinsurance;
- 33 (3) Transactions in this State involving a policy lawfully solicited, written  
34 and delivered outside of this State covering only subjects of insurance  
35 not resident, located or expressly to be performed in this State at the  
36 time of issuance, and which transactions are subsequent to the issuance  
37 of such policy;
- 38 (4) Transactions in this State involving group life insurance, group  
39 annuities, or group, blanket, or franchise accident and health insurance  
40 where the master policy of such insurance was lawfully issued and  
41 delivered in a state where the company was authorized to transact  
42 business;
- 43 (5) Transactions in this State involving all policies of insurance issued  
44 prior to July 1, 1967;

- 1 (6) The procuring of contracts of insurance issued to a nuclear insured;  
 2 (7) Insurance independently procured, as specified in subsection (b) of this  
 3 ~~section.~~ section;  
 4 (8) Insurance on vessels or craft, their cargoes, marine builders' risks,  
 5 marine protection and indemnity, or other risks commonly insured  
 6 under marine insurance policies, as distinguished from inland marine  
 7 insurance policies."

8 Sec. 7. G.S. 58-7-15 reads as rewritten:

9 **"§ 58-7-15. Kinds of insurance authorized.**

10 The kinds of insurance ~~which~~ that may be authorized in this State, subject to the  
 11 other provisions of Articles 1 through 64 of this Chapter, are set forth in ~~the following~~  
 12 ~~paragraphs.~~ this section. Except to the extent an insurer participates in a risk sharing  
 13 plan under Article 42 of this Chapter ~~Chapter~~, nothing herein contained shall require in this  
 14 section requires any insurer to insure every kind of risk ~~which~~ that it is authorized to  
 15 insure. Except to the extent an insurer participates in a risk sharing plan under Article  
 16 42 of this Chapter ~~Chapter~~, no insurer may transact any other business than that specified  
 17 in its charter and articles of ~~association.~~ association or incorporation. The power to do  
 18 any kind of insurance against loss of or damage to property ~~shall include~~ includes the  
 19 power to insure all lawful interests in ~~such~~ the property and to insure against loss of use  
 20 and ~~occupancy,~~ occupancy and rents and profits resulting therefrom; but no kind of  
 21 insurance ~~shall be deemed to include~~ includes life insurance or insurance against legal  
 22 liability for personal injury or death unless specified ~~herein.~~ in this section. In addition to  
 23 any power to engage in any other kind of business than an insurance business ~~which~~ that  
 24 is specifically conferred by the provisions of Articles 1 through 64 of this Chapter, any  
 25 insurer authorized to do business in this State may engage in such other ~~kind or~~ kinds of  
 26 business to the extent necessarily or properly incidental to the ~~kind or~~ kinds of insurance  
 27 business ~~which~~ that it is authorized to do in this State. Each of the following ~~paragraphs~~  
 28 indicates the scope of the kind of insurance business ~~specified therein.~~ specified:

- 29 (1) 'Life ~~insurance,~~ insurance', meaning every insurance upon the lives of  
 30 human beings and every insurance appertaining thereto. The business  
 31 of life insurance ~~shall be deemed to include~~ includes the granting of  
 32 endowment benefits; additional benefits in the event of death by  
 33 accident or accidental means; additional benefits operating to  
 34 safeguard the contract from lapse, or to provide a special surrender  
 35 value, in the event of total and permanent disability of the insured,  
 36 including industrial sick benefit; and optional modes of settlement of  
 37 proceeds.  
 38 (2) '~~Annuities,~~ Annuities', meaning all ~~agreement~~ agreements to make  
 39 periodical payments, whether in fixed or variable dollar amounts, or  
 40 both, ~~where the making or continuance of all or of some of a series of~~  
 41 ~~such payments, or the amount of any such payment, is dependent upon~~  
 42 ~~the continuance of human life, except payments made under the~~  
 43 ~~authority of subdivision (1).~~ at specified intervals.  
 44 (3) 'Accident and health ~~insurance,~~ insurance', meaning ~~meaning:~~

- 1 a. Insurance against death or personal injury by accident or by any  
2 specified ~~kind or kinds~~ of accident and insurance against  
3 sickness, ailment or bodily injury except as specified in  
4 paragraph b following; and
- 5 b. ~~Noncancelable~~ 'Noncancelable disability insurance,' meaning  
6 insurance against disability resulting from sickness, ailment or  
7 bodily injury (but not including insurance solely against  
8 accidental injury), under any contract ~~which that~~ does not give  
9 the insurer the option to cancel or otherwise terminate the  
10 contract at or after one year from its effective date or renewal  
11 date.
- 12 (4) 'Fire insurance,' ~~insurance~~, meaning insurance against loss of or  
13 damage to any property resulting from fire, including loss or damage  
14 incident to the extinguishment of a fire or to the salvaging of property  
15 in connection therewith.
- 16 (5) 'Miscellaneous property insurance,' ~~insurance~~, meaning loss of or  
17 damage to property resulting from
- 18 a. Lightning, smoke or smudge, windstorm, tornado, cyclone,  
19 earthquake, volcanic eruption, rain, hail, frost and freeze,  
20 weather or climatic conditions, excess or deficiency of  
21 moisture, flood, the rising of the waters of the ocean or its  
22 tributaries, or
- 23 b. Insects, or blights, or from disease of such property other than  
24 animals, or
- 25 c. Electrical disturbance causing or concomitant with a fire or an  
26 explosion in public service or public utility property, or
- 27 d. Bombardment, invasion, insurrection, riot, civil war or  
28 commotion, military or usurped power, any order of a civil  
29 authority made to prevent the spread of a conflagration,  
30 epidemic or catastrophe, vandalism or malicious mischief,  
31 strike or lockout, or explosion; but not including any kind of  
32 insurance specified in subdivision (9), except insurance against  
33 loss or damage to property resulting from:
- 34 1. Explosion of pressure vessels (except steam boilers of  
35 more than 15 pounds pressure) in buildings designed and  
36 used solely for residential purposes by not more than  
37 four families,
- 38 2. Explosion of any kind originating outside of the insured  
39 building or outside of the building containing the  
40 property insured,
- 41 3. Explosion of pressure vessels ~~which that~~ do not contain  
42 steam or ~~which that~~ are not operated with steam coils or  
43 steam jackets,

- 1                                   4.     Electrical disturbance causing or concomitant with an  
2   explosion in public service or public utility property.
- 3           (6)   ‘Water damage insurance,’ meaning insurance against loss or damage  
4                                   by water or other fluid or substance to any property resulting from the  
5                                   breakage or leakage of sprinklers, ~~pumps~~pumps, or other apparatus  
6                                   erected for extinguishing fires or of water pipes or other conduits or  
7                                   ~~containers~~,containers; or resulting from casual water entering through  
8                                   leaks or openings in buildings or by seepage through building ~~walls~~,  
9                                   walls; but not including loss or damage resulting from flood or the  
10                                   rising of the waters of the ocean or its tributaries; and including  
11                                   insurance against accidental injury of such sprinklers, pumps, fire  
12                                   apparatus, ~~conduits~~conduits, or containers.
- 13           (7)   ‘Burglary and theft insurance,’ meaning:  
14                                   a.     Insurance against loss of or damage to any property resulting  
15                                   from burglary, theft, larceny, robbery, forgery, fraud,  
16                                   vandalism, malicious mischief, ~~confiscation~~confiscation, or  
17                                   wrongful conversion, disposal or concealment by any person or  
18                                   persons, or from any attempt at any of the foregoing, and  
19                                   b.     Insurance against loss of or damage to moneys, coins, bullion,  
20                                   securities, notes, drafts, ~~acceptances~~acceptances, or any other  
21                                   valuable papers or documents, resulting from any cause, except  
22                                   while in the custody or possession of and being transported by  
23                                   any carrier for hire or in the mail.
- 24           (8)   ‘Glass insurance,’ meaning insurance against loss of or damage to  
25                                   glass and its appurtenances resulting from any cause.
- 26           (9)   ‘Boiler and machinery insurance,’ meaning insurance against loss of or  
27                                   damage to any property of the insured, resulting from the explosion of  
28                                   or injury to:  
29                                   a.     Any boiler, heater or other fired pressure vessel;  
30                                   b.     Any unfired pressure vessel;  
31                                   c.     Pipes or containers connected with any of said boilers or  
32                                   vessels;  
33                                   d.     Any engine, turbine, compressor, pump or wheel;  
34                                   e.     Any apparatus generating, transmitting or using electricity;  
35                                   f.     Any other machinery or apparatus connected with or operated  
36                                   by any of the previously named boilers, vessels or machines;  
37                                   and including the incidental power to make inspections of and to issue  
38                                   certificates of inspection upon, any such boilers, apparatus, and  
39                                   machinery, whether insured or otherwise.
- 40           (10) ‘Elevator insurance,’ meaning insurance against loss of or damage to  
41                                   any property of the insured, resulting from the ownership, maintenance  
42                                   or use of elevators, except loss or damage by fire.
- 43           (11) ‘Animal insurance,’ meaning insurance against loss of or damage to  
44                                   any domesticated or wild animal resulting from any cause.

- 1 (12) 'Collision insurance,' meaning insurance against loss of or damage to  
2 any property of the insured resulting from collision of any other object  
3 with ~~such~~ the property, but not including collision to or by elevators or  
4 to or by vessels, craft, piers or other instrumentalities of ocean or  
5 inland navigation.
- 6 (13) 'Personal injury liability insurance,' meaning insurance against legal  
7 liability of the insured, and against loss, ~~damage~~ damage, or expense  
8 incident to a claim of such ~~liability~~, liability; and including an  
9 obligation of the insurer to pay medical, hospital, ~~surgical and~~ surgical,  
10 or funeral ~~benefits~~ benefits; and in the case of automobile liability  
11 insurance including also disability and death benefits to injured  
12 persons, irrespective of legal liability of the insured, arising out of the  
13 death or injury of any person, or arising out of injury to the economic  
14 interests of any person as a result of negligence in rendering expert,  
15 ~~fiduciary~~ fiduciary, or professional ~~service~~, service; but not including  
16 any kind of insurance specified in subdivision (15).
- 17 (14) 'Property damage liability insurance,' meaning insurance against legal  
18 liability of the insured, and against loss, damage or expense incident to  
19 a claim of such liability, arising out of the loss or destruction of, or  
20 damage to, the property of any other person, but not including any  
21 kind of insurance specified in subdivision (13) or (15).
- 22 (15) 'Workers' compensation and employer's liability insurance,' meaning  
23 insurance against the legal liability, whether imposed by common law  
24 or by statute or assumed by contract, of any employer for the death or  
25 disablement of, or injury to, ~~his or its~~ the employer's employee.
- 26 (16) 'Fidelity and surety insurance,' meaning:  
27 a. Guaranteeing the fidelity of persons holding positions of public  
28 or private trust;  
29 b. Becoming surety on, or guaranteeing the performance of, any  
30 lawful contract except the following:  
31 1. A contract of indebtedness secured by title to, or  
32 mortgage upon, or interest in, real or personal property;  
33 2. Any insurance contract except reinsurance;  
34 c. Becoming surety on, or guaranteeing the performance of, bonds  
35 and undertakings required or permitted in all judicial  
36 proceedings or otherwise by law allowed, including surety  
37 bonds accepted by states and municipal authorities in lieu of  
38 deposits as security for the performance of insurance contracts;  
39 d. Guaranteeing contracts of indebtedness secured by any title to,  
40 or interest in, real property, only to the extent required for the  
41 purpose of refunding, extending, refinancing, liquidating or  
42 salvaging obligations heretofore lawfully made and guaranteed;  
43 e. Indemnifying banks, bankers, brokers, financial or moneyed  
44 corporations or associations against loss resulting from any

1 cause of bills of exchange, notes, bonds, securities, evidences of  
2 debts, deeds, mortgages, warehouse receipts, or other valuable  
3 papers, documents, money, precious metals and articles made  
4 therefrom, jewelry, watches, necklaces, bracelets, gems,  
5 precious and semiprecious stones, including any loss while the  
6 same are being transported in armored motor vehicles, or by  
7 ~~messenger~~, messenger; but not including any other risks of  
8 transportation or navigation; also against loss or damage to such  
9 an insured's premises, or to ~~his~~ the insured's furnishings,  
10 fixtures, equipment, safes and vaults therein, caused by  
11 burglary, robbery, theft, vandalism or malicious mischief, or  
12 any attempt thereat.

13 (17) 'Credit insurance,' meaning indemnifying merchants or other persons  
14 extending credit against loss or damage resulting from the nonpayment  
15 of debts owed to them; and including the incidental power to acquire  
16 and dispose of debts so insured, and to collect any debts owed to ~~such~~  
17 the insurer or to any person so insured by ~~him~~ the insurer including  
18 without limiting the foregoing, mortgage guaranty insurance ~~which that~~  
19 is insurance against financial loss by reason of the nonpayment of  
20 principal, interest, and other sums agreed to be paid under the terms of  
21 any note or bond, or other evidence of indebtedness secured by a  
22 security interest, mortgage, deed of trust, or other instrument  
23 constituting a lien or charge on real estate, or on such personal  
24 property as the Commissioner may from time to time approve.

25 (18) 'Title insurance,' meaning insuring the owners of real property and  
26 chattels real and other persons lawfully interested therein against loss  
27 by reason of defective titles and encumbrances thereon and insuring  
28 the correctness of searches for all instruments, liens or charges  
29 affecting the title to ~~such that~~ property, including the power to procure  
30 and furnish information relative thereto, and ~~such~~ other incidental  
31 powers ~~as that~~ are specifically granted in Articles 1 through 64 of this  
32 Chapter.

33 (19) 'Motor vehicle and aircraft insurance,' meaning insurance against loss  
34 of or damage resulting from any cause to motor vehicles or aircraft and  
35 their equipment, and against legal liability of the insured for loss or  
36 damage to ~~the another's~~ property of another resulting from the  
37 ownership, maintenance or use of motor vehicles or aircraft and  
38 against loss, damage or expense incident to a claim of such liability.

39 (20) 'Marine insurance,' meaning insurance against any and all kinds of  
40 loss or damage to:

- 41 a. Vessels, craft, aircraft, cars, automobiles and vehicles of every  
42 kind, as well as all goods, freights, cargoes, merchandise,  
43 effects, disbursements, profits, moneys, bullion, precious  
44 stones, securities, choses in action, evidences of debt, valuable



- 1 papers, bottomry and respondentia interests and all other kinds  
 2 of property and interests therein, in respect to, appertaining to  
 3 or in connection with any and all risks or perils of navigation,  
 4 transit, or transportation, including war risks, on or under any  
 5 seas or other waters, on land or in the air, or while being  
 6 assembled, packed, crated, baled, compressed or similarly  
 7 prepared for shipment or while awaiting the same or during any  
 8 delays, storage, transshipment, or reshipment incident thereto,  
 9 including marine builder's risks and all personal property floater  
 10 risks, and
- 11 b. Person or to property in connection with or appertaining to a  
 12 marine, inland marine, transit or transportation insurance,  
 13 including liability for loss of or damage to either, arising out of  
 14 or in connection with the construction, repair, operation,  
 15 maintenance or use of the subject matter of ~~such~~ the insurance  
 16 (but not including life insurance or surety bonds nor insurance  
 17 against loss ~~by reason~~ because of bodily injury to the person  
 18 arising out of the ownership, maintenance or use of  
 19 automobiles), and
- 20 c. Precious stones, jewels, jewelry, gold, silver and other precious  
 21 metals, whether used in business or trade or otherwise and  
 22 whether the same be in course of transportation or otherwise,  
 23 and
- 24 d. Bridges, tunnels and other instrumentalities of transportation  
 25 and communication (excluding buildings, their furniture and  
 26 furnishings, fixed contents and supplies held in storage) unless  
 27 fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot  
 28 and/or civil commotion are the only hazards to be covered;  
 29 piers, wharves, docks and slips, excluding the risks of fire,  
 30 tornado, sprinkler leakage, hail, explosion, earthquake, riot  
 31 and/or civil commotion; other aids to navigation and  
 32 transportation, including dry docks and marine railways against  
 33 all risks.
- 34 (21) 'Marine protection and indemnity insurance,' meaning insurance  
 35 against, or against legal liability of the insured for, loss, damage or  
 36 expense arising out of, or incident to, the ownership, operation,  
 37 chartering, maintenance, use, repair or construction of any vessel, craft  
 38 or instrumentality in use in ocean or inland waterways, including  
 39 liability of the insured for personal injury, illness or death or for loss of  
 40 or damage to the property of another person.
- 41 (22) 'Miscellaneous insurance,' meaning insurance against any other  
 42 casualty authorized by the charter of the company, not included in  
 43 subdivisions (1) to (21) ~~inclusive~~ of this section, which is a proper  
 44 subject of insurance."

1           Sec. 8. G.S. 58-58-110(a) reads as rewritten:

2           "(a) Each insurer admitted to transact insurance in this State which, without the  
3 written consent of the beneficiary, fails or refuses to pay the death proceeds or death  
4 benefits in accordance with the terms of any policy ~~of life or accident insurance~~ providing  
5 a death benefit issued by it in this State within 30 days after receipt of satisfactory proof  
6 of loss because of the death, whether accidental or otherwise, of the insured shall pay  
7 interest, at a rate not less than the then current rate of interest on death proceeds left on  
8 deposit with the insurer computed from the date of the insured's death, on any moneys  
9 payable and unpaid after the expiration of ~~such~~ the 30-day period. As used in this  
10 subsection, the phrase "satisfactory proof of loss because of the death" includes, but is  
11 not limited to, a certified copy of the death certificate; or a written statement by the  
12 attending physician at the time of death that contains the following information: (i) the  
13 name and address of the physician, who must be duly licensed to practice medicine in  
14 the United States; (ii) the name of the deceased; (iii) the date, time, and place of the  
15 death; and (iv) the immediate cause of the death."

16           Sec. 9. G.S. 58-58-140 reads as rewritten:

17 **"§ 58-58-140. Group life insurance standard provisions.**

18           No policy of group life insurance shall be delivered in this State unless it contains in  
19 substance the following provisions, or provisions which in the Commissioner's opinion  
20 ~~of the Commissioner~~ are more favorable to the persons insured, or at least as favorable to  
21 the persons insured and more favorable to the policyholder, provided, however, (i) that  
22 subdivisions (6) ~~to through~~ (10) inclusive ~~shall of this section do not apply to policies~~  
23 ~~issued to a creditor to insure the creditor's debtors; creditors of such creditor;~~ (ii) that the  
24 standard provisions required for individual life insurance policies ~~shall do not apply to~~  
25 group life insurance policies; and (iii) that if the group life insurance policy is on a plan  
26 of insurance other than the term plan, it shall contain a nonforfeiture provision or  
27 provisions ~~which that~~ in the Commissioner's opinion of the Commissioner is or are  
28 equitable to the insured persons and to the policyholder, but nothing ~~herein shall be~~  
29 ~~construed to require that in this section requires group life insurance policies to contain~~  
30 the same nonforfeiture provisions ~~as that~~ are required for individual life insurance  
31 policies:

- 32           (1) A provision that the policyholder is entitled to a grace period of 31  
33 days for the payment of any premium due except the first, during  
34 which grace period the death benefit coverage shall continue in force,  
35 unless the policyholder ~~shall have~~ has given the insurer written notice  
36 of discontinuance ~~in advance of~~ before the date of discontinuance and  
37 in accordance with the terms of the policy. The policy may provide  
38 that the policyholder shall be liable to the insurer for the payment of a  
39 pro rata premium for the time the policy was in force during ~~such~~ the  
40 grace period.
- 41           (2) A provision that the validity of the policy shall not be contested,  
42 except for nonpayment of premiums, after it has been in force for two  
43 years from its date of issue; and that no statement made by any person  
44 insured under the policy relating to ~~his~~ that person's insurability shall

1 be used in contesting the validity of the insurance with respect to  
2 which ~~such~~the statement was made after ~~such~~the insurance has been in  
3 force ~~prior to~~before the contest for a period of two years during ~~such~~  
4 the person's lifetime nor unless it is contained in a written instrument  
5 signed by ~~him~~the person.

6 (3) A provision that a copy of the application, if any, of the policyholder  
7 shall be attached to the policy when issued, that all statements made by  
8 the policyholder or by the persons insured shall be ~~deemed~~considered  
9 representations and not ~~warranties~~warranties; and that no statement  
10 made by any person insured shall be used in any contest unless a copy  
11 of the instrument containing the statement is or has been furnished to  
12 ~~such~~the person or to ~~his~~the person's beneficiary.

13 (4) A provision setting forth the conditions, if any, under which the insurer  
14 reserves the right to require a person eligible for insurance to furnish  
15 evidence of individual insurability satisfactory to the insurer as a  
16 condition to part or all of ~~his~~the person's coverage.

17 (5) A provision specifying an equitable adjustment of premiums or ~~of~~  
18 ~~benefits~~benefits, or ~~of both~~both, to be made ~~in the event if~~ the age of a  
19 person insured has been ~~misstated~~such~~misstated~~; the provision to  
20 contain a clear statement of the method of adjustment to be used.

21 (6) A provision that any sum becoming due ~~by reason~~because of the death  
22 of the person insured shall be payable to the beneficiary designated by  
23 the person insured, subject to the provisions of the policy ~~in the event if~~  
24 there is no designated beneficiary as to all or any part of ~~such~~the sum  
25 living at the death of the person insured, and subject to any right  
26 reserved by the insurer in the policy and set forth in the certificate to  
27 pay at its option a part of ~~such~~the sum not exceeding two hundred fifty  
28 dollars (\$250.00) to any person appearing to the insurer to be equitably  
29 entitled thereto by ~~reason of~~ having incurred funeral or other expenses  
30 incident to the last illness or death of the person insured.

31 (7) A provision that the insurer will issue to the ~~policyholder~~policyholder,  
32 for delivery to each person ~~insured~~insured, an individual certificate  
33 setting forth a statement as to the insurance protection to which ~~he~~the  
34 person is entitled, to whom the insurance benefits are payable, and the  
35 rights and conditions set forth in subdivisions (8), (9) and (10)  
36 ~~following~~of this section.

37 (8) A provision that if the insurance, or any portion of it, on a person  
38 covered under the policy ceases because of termination of employment  
39 or of membership in the ~~class or~~ classes eligible for coverage under the  
40 policy, ~~such~~the person shall be entitled to ~~have~~be issued ~~to him~~ by the  
41 insurer, without evidence of insurability, an individual policy of life  
42 insurance without disability or other supplementary benefits, provided  
43 application for the individual policy shall be made, and the first

1 premium paid to the insurer, within 31 days after such termination, and  
2 provided further that,

3 a. The individual policy shall, at the option of ~~such~~the person, be  
4 on any one of the forms, except term insurance, then  
5 customarily issued by the insurer at the age and for the amount  
6 applied for;

7 b. The individual policy shall be in an amount not in excess of the  
8 amount of life insurance which ceases because of ~~such~~the  
9 termination, provided that any amount of insurance which shall  
10 have matured on or before the date of ~~such~~the termination as an  
11 endowment payable to the person insured, whether in one sum  
12 or in installments or in the form of an annuity, shall not, for the  
13 purposes of this provision, be included in the amount which is  
14 considered to cease because of ~~such~~the termination; and

15 c. The premium on the individual policy shall be at the insurer's  
16 then customary rate applicable to the form and amount of the  
17 individual policy, to the class of risk to which ~~such~~the person  
18 then belongs, and to ~~his~~the person's age ~~attained~~ on the effective  
19 date of the individual policy.

20 (9) A provision that if the group policy terminates or is amended so as to  
21 terminate the insurance of any class of insured persons, every person  
22 insured ~~thereunder~~under the policy at the date of ~~such~~the termination  
23 whose insurance terminates and who has been so insured for at least  
24 five years ~~prior to such~~before the termination date shall be entitled to  
25 ~~have issued to him~~be issued by the insurer an individual policy of life  
26 insurance, subject to the ~~same~~ conditions and limitations ~~as are provided~~  
27 ~~by~~in (8) above, except that the group policy may provide that the  
28 amount of ~~such~~the individual policy shall not exceed the smaller of (i)  
29 the amount of the person's life insurance protection ceasing because of  
30 the termination or amendment of the group policy, less the amount of  
31 any life insurance for which ~~he~~the person is or becomes eligible under  
32 any group policy issued or reinstated by the same or another insurer  
33 within 31 days after ~~such~~ termination, and (ii) ~~two thousand dollars~~  
34 ~~(\$2,000)~~ten thousand dollars (\$10,000).

35 (10) A provision that if a person insured under the group policy dies during  
36 the period within which ~~he~~the person would have been entitled to have  
37 been issued an individual policy ~~issued to him~~ in accordance with (8) or  
38 (9) above and before such an individual policy shall have become  
39 effective, the amount of life insurance which ~~he~~the person would have  
40 been entitled to have been issued to him under ~~such~~the individual  
41 policy shall be payable as a claim under the group policy, whether or  
42 not application for the individual policy or the payment of the first  
43 premium therefor has been made."

44 Sec. 10. G.S. 58-60-35(a)(2) reads as rewritten:

1           "(2) 'Prearrangement insurance policy' means a life insurance policy,  
2 annuity contract, or other insurance contract, or any series of contracts  
3 or agreements in any form or manner, issued on a group or individual  
4 basis by an insurance company authorized by law to do business in this  
5 State, which, whether by assignment or otherwise, has for a purpose  
6 the funding of a specific preneed funeral contract or a specific  
7 insurance-funded funeral or burial prearrangement, the insured being  
8 the person for whose service the funds were paid."

9           Sec. 11. G.S. 58-51-80(g) reads as rewritten:

10          "(g) Any policy or contract of group accident, group health or group accident and  
11 health insurance may provide for readjustment of the rate of premium based on the  
12 experience thereunder at the end of the first year, or at any time during any subsequent  
13 year based upon at least 12 months of experience: Provided that any such readjustment  
14 after the first year shall not be made any more frequently than once every six months.  
15 Any rate adjustment must be preceded by a 45-day notice to the contract holder before  
16 the effective date of any rate increase or any policy benefit revision. A notice of  
17 nonrenewal shall be given to the contract holder 45 days prior to termination. Any  
18 refund under any plan for readjustment of the rate of premium based on the experience  
19 under group policies and any dividend paid under ~~such~~the policies may be used to  
20 reduce the employer's or principal's contribution to group insurance for the employees  
21 of the employer, or the agents of the principal, and the excess over ~~such~~the contribution  
22 by the employer, or principal, shall be applied by the employer, or principal, for the sole  
23 benefit of the employees or agents."

24          Sec. 12. G.S. 58-51-30 reads as rewritten:

25          "**§ 58-51-30. Policies to cover newborn infants, infants and adopted children.**

26          Every policy of insurance and every hospital service or medical service plan as  
27 defined in Articles 65 and 66 of this ~~Chapter~~Chapter, and any health care plan operated  
28 by a health maintenance organization as defined in Article 67 of this Chapter (regardless  
29 of whether any of such policies or plans shall be defined as individual, family, group,  
30 blanket, franchise, industrial or otherwise) ~~which~~that provides benefits on account of  
31 any sickness, illness, or disability of any minor child or ~~which~~that provides benefits on  
32 account of any medical treatment or service authorized or permitted to be furnished by a  
33 hospital under the laws of this State to any minor child shall provide ~~such~~the benefits  
34 for ~~such~~those occurrences beginning with the moment of the child's birth ~~of such child if~~  
35 ~~such~~the birth occurs while ~~said policy or the policy~~, subscriber ~~contract~~contract, or  
36 evidence of coverage with such a plan is in force. Adoptive children shall be treated the  
37 same as newborn infants and eligible for coverage on the same basis upon placement in  
38 the adoptive home, regardless of whether a final decree of adoption has been entered;  
39 provided that a petition for adoption has been duly filed and is pursued to a final decree  
40 of adoption.

41          Benefits in such insurance ~~policies or plans~~policies, plans, or evidence of coverage  
42 shall be the same for congenital defects or anomalies as are provided for most  
43 sicknesses or illnesses suffered by minor children which are covered by ~~said policies or~~  
44 the policies, plans, plans, or evidence of coverage. Benefits for congenital defects or

1 anomalies shall specifically include, but not be limited to, all necessary treatment and  
2 care needed by individuals born with cleft lip or cleft palate.

3 No policy or plan subscriber contract or evidence of coverage shall be approved by  
4 the Commissioner of Insurance pursuant to the provisions of this Article or the  
5 provisions of Articles ~~65 and 66~~ 65, 66, and 67 of this Chapter that does not comply with  
6 the provisions of this section.

7 The provisions of this section shall apply both to insurers governed by the provisions  
8 of Articles 1 through 64 of this Chapter and to corporations governed by the provisions  
9 of Articles ~~65 and 66~~ 65, 66, and 67 of this Chapter."

10 Sec. 13. G.S. 58-67-50(c) reads as rewritten:

11 "(c) The Commissioner shall, within a reasonable period, approve any form if the  
12 requirements of paragraph (1) are met and any schedule of premiums if the  
13 requirements of paragraph (2) are met. It shall be unlawful to issue ~~such the~~ form or to  
14 use ~~such the~~ schedule of premiums until approved. If the Commissioner disapproves  
15 ~~such the~~ filing, ~~he the~~ Commissioner shall notify the filer. In the notice, the  
16 Commissioner shall specify the reasons for his disapproval. A hearing will be granted  
17 within 30 days after a request in writing by the person filing. If the Commissioner does  
18 not approve or disapprove any form or schedule of premiums within ~~30~~ 90 days ~~of after~~  
19 the filing for forms and within 60 days after the filing for premiums, of such forms or  
20 ~~premiums,~~ they shall be deemed to be approved."

21 Sec. 14. Article 3 of Chapter 58 of the General Statutes is amended by  
22 adding a new section to read:

23 "**§ 58-3-102. Request for determination of coverage for transplants under health**  
24 **benefit payment mechanisms; required response time; penalties.**

25 (a) As used in this section, 'insurer' means any payer of health benefits that is  
26 subject to Articles 1 through 66 of this Chapter.

27 (b) When a person or that person's health care provider or representative requests  
28 that person's insurer to determine whether a transplant is eligible for benefits under that  
29 person's health benefit coverage, the insurer shall, within 10 business days after receipt  
30 of the request and medical documentation necessary to determine if there is coverage,  
31 inform the requesting person as to whether there is coverage; provided coverage exists  
32 at the time of the transplant."

33 Sec. 15. G.S. 58-69-5 reads as rewritten:

34 "**§ 58-69-5. License required.**

35 No motor club, district or branch office of a motor club, or franchise motor club  
36 shall engage in business in this State unless it holds a valid license issued to it by the  
37 Commissioner as ~~hereinafter provided~~ provided in this Article. The license shall at all  
38 times be prominently displayed in each office of the entity to which the license is  
39 issued."

40 Sec. 16. G.S. 58-33-25(e) reads as rewritten:

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

43 (1),(2) Repealed by Session Laws 1989, c. 485, s. 19.

44 (3) Credit Life, Accident and Health

- 1 (4) Credit  
 2 (5) Travel Accident and Baggage  
 3 (6) Motor Club  
 4 (7) Dental ~~Service~~-Services  
 5 (8) Bail bonds executed or countersigned by surety bondsmen under  
 6 Article 71 of this Chapter."

7 Sec. 17. G.S. 58-71-80 reads as rewritten:

8 **"§ 58-71-80. Grounds for denial, suspension, revocation or refusal to renew**  
 9 **licenses.**

10 (a) The Commissioner may deny, suspend, or revoke or refuse to renew any  
 11 license issued under this Article for any of the following causes:

- 12 (1) For any cause sufficient to deny, suspend, or revoke license under any  
 13 other provision of this Article.  
 14 (2) Violation of any laws of this State relating to bail in the course of  
 15 dealings under the license issued ~~him~~ by the Commissioner.  
 16 (3) Material misstatement, misrepresentation or fraud in obtaining the  
 17 license.  
 18 (4) Misappropriation, conversion or unlawful withholding of moneys  
 19 belonging to insurers or others and received in the conduct of business  
 20 under the license.  
 21 (5) Fraudulent or dishonest practices in the conduct of business under the  
 22 license.  
 23 (6) Conviction of a felony regardless of the time ~~such~~the conviction  
 24 occurred and regardless of whether ~~such~~the conviction resulted from  
 25 conduct in or related to the bail bond business.  
 26 (7) Failure to comply with or violation of the provisions of this Article or  
 27 of any order, rule or regulation of the Commissioner.  
 28 (8) When in the judgment of the Commissioner, the licensee has in the  
 29 conduct of ~~his~~the licensee's affairs under the license, demonstrated  
 30 ~~incompetency~~incompetency, financial irresponsibility, or  
 31 ~~untrustworthiness~~untrustworthiness; or that ~~he~~the licensee is no longer  
 32 in good faith carrying on the bail bond ~~business~~business; or that ~~he~~the  
 33 licensee is guilty of rebating, or offering to rebate, or offering to divide  
 34 the premiums received for the bond.  
 35 (9) For failing to pay any judgment or decree rendered on any forfeited  
 36 undertaking in any court of competent jurisdiction.  
 37 (10) For charging or receiving, as premium or compensation for the making  
 38 of any deposit or bail bond, any sum in excess of that permitted by this  
 39 Article.  
 40 (11) For requiring, as a condition of ~~his~~ executing a bail bond, that the  
 41 principal agree to engage the services of a specified attorney.  
 42 (12) For cheating on an examination for a license under this Article.  
 43 (13) For entering into any business association or agreement with any  
 44 ~~person, which person~~ person who is at that time found by the

1 Commissioner to be in violation of any of the bail bond laws of this  
2 State, or ~~which person who~~ has been in any manner disqualified under  
3 the bail bond laws of any other state, whereby ~~such the~~ person has any  
4 direct or indirect financial interest in the bail bond business of the  
5 licensee or applicant.

6 (14) For knowingly aiding or abetting others to evade or violate the  
7 provisions of this Article.

8 (15) Any cause for which issuance of the license could not have been  
9 refused had it then existed and been known to the Commissioner at the  
10 time of issuance.

11 (b) The Commissioner, in lieu of revoking or suspending a license in accordance  
12 with the provisions of this Article, may, in any one proceeding, by order, require the  
13 licensee to pay to the school fund in the licensee's county of ~~his~~ residence a civil penalty  
14 ~~in the sum of~~ two hundred fifty dollars (\$250.00) for each offense. Upon the licensee's  
15 ~~failure of such licensee to pay the penalty within 20 days after the mailing of such order,~~  
16 order is mailed, postage prepaid, registered and addressed to the licensee's last known  
17 place of business of such licensee, business, unless such the order is stayed by an order of  
18 the court of competent ~~jurisdiction, jurisdiction or unless the Commissioner has already~~  
19 suspended or revoked the license of the licensee, the Commissioner may revoke the  
20 ~~license of such licensee or may suspend the same license for such a period as he may~~  
21 ~~determine, any period."~~

22 Sec. 18. G.S. 58-71-105 reads as rewritten:

23 "**§ 58-71-105. Persons prohibited from becoming surety or runners.**

24 No sheriff, deputy sheriff, other law-enforcement officer, judicial official, attorney,  
25 parole officer, probation officer, jailer, assistant jailer, employee of the General Court of  
26 Justice, nor other public employee assigned to duties relating to the administration of  
27 criminal justice, nor the spouse of any such person, may in any case become surety on a  
28 bail bond for any person. In addition, no person covered by this section may act as an  
29 agent for any bonding company or professional bondsman. No such person may have an  
30 interest, directly or indirectly, in the financial affairs of any firm or corporation whose  
31 principal business is acting as ~~bondsmen~~ a bail bondsman. ~~Provided, however, However,~~  
32 ~~nothing herein shall prohibit in this section prohibits any such person above designated~~  
33 ~~from being surety upon the bond of his or her spouse, parent, brother, sister, child child,~~  
34 ~~or descendant."~~

35 Sec. 19. G.S. 58-71-185 reads as rewritten:

36 "**§ 58-71-185. Penalties for violations.**

37 Any person, firm, association or corporation violating any of the provisions of this  
38 Article is guilty of a misdemeanor and shall upon conviction for each offense be fined  
39 not more than five hundred dollars (\$500.00) less than one thousand dollars (\$1,000) nor  
40 more than five thousand dollars (\$5,000) or imprisoned for not more than six months,  
41 two years, or both."

42 Sec. 20. G.S. 58-71-165 reads as rewritten:

43 "**§ 58-71-165. Monthly report required.**



1 Each professional bail bondsman and surety bondsman shall file with the  
2 Commissioner of Insurance a written report in form prescribed by the Commissioner  
3 regarding all bail bonds on which ~~he~~the bondsman is liable as of the first day of each  
4 month showing (i) each individual bonded, (ii) the date ~~such~~the bond was given, (iii)  
5 the principal sum of the bond, (iv) the State or local official to whom given, and (v) the  
6 fee charged for the bonding service in each instance. ~~Such~~The report shall be filed on  
7 or before the fifteenth day of each month. Within the same time, a copy of this written  
8 report must also be filed with the clerk of superior court in any county in which ~~he~~the  
9 bondsman is obligated on bail bonds. Any person who knowingly and willfully falsifies  
10 a report required by this section is guilty of a Class J felony."

11 Sec. 21. G.S. 58-71-170 reads as rewritten:

12 "**§ 58-71-170. Examinations.**

13 (a) Whenever the Commissioner deems it ~~prudent~~heprudent, the Commissioner  
14 shall visit and examine or cause to be visited and examined by ~~some~~a competent person  
15 appointed by ~~him~~the Commissioner for that purpose any professional bail bondsman  
16 subject to the provisions of this Article. For this purpose the Commissioner or person  
17 making the examination shall have free access to all books and papers of the bondsman  
18 that relate to ~~his~~the bondsman's business and to the books and papers kept by any of ~~his~~  
19 the bondsman's agents or runners.

20 (b) The Commissioner may conduct examinations of surety bondsmen under  
21 G.S. 58-2-195 as well as under subsection (a) of this section."

22 Sec. 22. Article 71 of Chapter 58 of the General Statutes is amended by  
23 adding two new subsections to read:

24 "**§ 58-71-167. Portion of bond premium payments deferred.**

25 (a) In any case where the agreement between principal and surety calls for some  
26 portion of the bond premium payments to be deferred or paid after the defendant has  
27 been released from custody, a written memorandum of agreement between the principal  
28 and surety shall be kept on file by the surety with a copy provided to the principal, upon  
29 request. The memorandum shall contain the following information:

30 (1) The amount of the premium payment deferred or not yet paid at the  
31 time the defendant is released from jail.

32 (2) The method and schedule of payment to be made by the defendant to  
33 the bondsman, which shall include the dates of payment and amount to  
34 be paid on each date.

35 (3) That the principal is, upon the principal's request, entitled to a copy of  
36 the memorandum.

37 (b) The memorandum must be signed by the defendant and the bondsman, or one  
38 of the bondsman's agents, and dated at the time the agreement is made. Any subsequent  
39 modifications of the memorandum must be in writing, signed, dated, and kept on file by  
40 the surety, with a copy provided to the principal, upon request.

41 "**§ 58-71-168. Records to be maintained.**

42 All records related to executing bail bonds, including bail bond registers, monthly  
43 reports, receipts, collateral security agreements, and memoranda of agreements, shall be

1 kept separate from records of any other business and must be maintained for not less  
2 than three years after the final entry has been made."

3 Sec. 23. G.S. 58-70-65 is amended by adding a new subsection to read:

4 "(c) Each permit holder located outside this State shall deposit in a separate trust  
5 account, designated for its North Carolina creditors, funds to pay all monies due or  
6 owing all collection creditors or forwarders located within this State."

7 Sec. 24. Article 55 of Chapter 58 of the General Statutes is amended by  
8 adding a new section to read:

9 "**§ 58-55-5. Dual options.**

10 (a) No policy that conditions the eligibility of benefits on prior hospitalization  
11 may be delivered or issued for delivery in this State unless the insurer or other entity  
12 offering that policy also offers a policy that does not condition eligibility of benefits on  
13 such a requirement.

14 (b) Policies that were delivered, issued for delivery, or renewed on and after  
15 October 1, 1989, that did not condition the eligibility of benefits on prior  
16 hospitalizations shall be amended, upon the insured's written request, to condition  
17 eligibility of benefits on prior hospitalization, provided that the insured receives the  
18 appropriate reduction in premium."

19 Sec. 25. Article 4 of Chapter 97 of the General Statutes is amended by  
20 adding a new section to read:

21 "**§ 97-143. Use of deposits made by insolvent member self-insurers.**

22 After the Commissioner has notified the Association, under G.S. 97-136(a), that a  
23 member is insolvent, the Commissioner shall assign and deliver to the Association, and  
24 the Association is authorized to expend the deposit made by the insolvent member  
25 pursuant to G.S. 97-93(b), to the extent the deposit is needed by the Association to pay  
26 covered claims against the premium taxes owed by the insolvent member as required by  
27 this Article, and to the extent the deposit is needed to pay expenses of the Association  
28 relating to covered claims against the insolvent member. The Association shall account  
29 to the Commissioner and the insolvent member or its successor for all deposits received  
30 from the Commissioner under this section."

31 Sec. 26. G.S. 58-2-40 reads as rewritten:

32 "**§ 58-2-40. Powers and duties of Commissioner.**

33 The Commissioner shall:

- 34 (1) See that all laws of this State that ~~he~~ the Commissioner is statutorily  
35 responsible for administering and the provisions of this Chapter are  
36 faithfully executed; and to that end he shall have power and authority to  
37 make the Commissioner is authorized to adopt rules in accordance with  
38 Chapter 150B of the General Statutes, in order to enforce, carry out  
39 and make effective the provisions of those laws. He—The  
40 Commissioner is also has the authority authorized to make adopt such  
41 further rules not contrary to those laws which—that will prevent persons  
42 subject to his—the Commissioner's regulatory authority from engaging  
43 in practices injurious to the public.

- 1 (2) Have the power and authority to ~~make and promulgate~~ adopt rules and  
2 ~~regulations~~ pertaining to and governing the solicitation of proxies,  
3 including financial reporting in connection therewith, with respect to  
4 the capital stock or other equity securities of any domestic stock  
5 insurance company.
- 6 (3) ~~Furnish~~ Prescribe to the companies, associations, ~~orders~~ orders, or  
7 bureaus required by Articles 1 through 64 of this Chapter to report to  
8 ~~him, the Commissioner~~, the necessary ~~blank~~ forms for the statements  
9 ~~required, which forms may be changed by him~~ required. The  
10 Commissioner may change those forms from time to time when  
11 necessary to secure full information as to the standing, ~~condition~~  
12 condition, and such other information desired of companies,  
13 associations, ~~orders~~ orders, or bureaus under the ~~Insurance~~ jurisdiction  
14 of the Department.
- 15 (4) Receive and thoroughly examine each ~~annual~~ financial statement  
16 required by Articles 1 through 64 of this Chapter.
- 17 (5) Report in detail to the Attorney General any violations of the laws  
18 relative to insurance companies, associations, orders and bureaus or  
19 the business of ~~insurance~~, insurance; and ~~he the Commissioner shall~~  
20 ~~have power to~~ may institute civil actions or criminal prosecutions either  
21 by the Attorney General or ~~such other~~ another attorney as whom the  
22 Attorney General may select, for any violation of the provisions of  
23 Articles 1 through 64 of this Chapter.
- 24 (6) Upon a proper application by any citizen of this State, give a statement  
25 or synopsis of the provisions of any insurance contract offered or  
26 issued to ~~such the~~ citizen.
- 27 (7) ~~Administer by himself~~ Administer, or ~~by his~~ the Commissioner's deputy  
28 may administer, all oaths required in the discharge of ~~his~~ the  
29 Commissioner's official duty.
- 30 (8) Compile and make available to the public such lists of rates charged,  
31 including deviations, and such explanations of coverages that are  
32 provided by insurers for and in connection with contracts or policies of  
33 (i) insurance against loss to residential real property with not more  
34 than four housing units located in this State and any contents thereof or  
35 valuable interest therein and other insurance coverages written in  
36 connection with the sale of such property insurance and (ii) private  
37 passenger (nonfleet) motor vehicle liability, physical damage, theft,  
38 medical payments, uninsured motorists, and other insurance coverages  
39 written in connection with the sale of such insurance, as may be  
40 advisable to inform the public of insurance premium differentials and  
41 of the nature and types of coverages provided. The explanations of  
42 coverages provided for in this section must comply with the provisions  
43 of Article 38 of this Chapter."

44 Sec. 27. G.S. 58-51-20(a) reads as rewritten:

1       "(a) Every individual or blanket family hospitalization policy and accident and  
2 health policy, other than ~~noncancelable~~noncancelable or nonrenewable policies but  
3 including group, blanket and franchise policies, as defined in Articles 1 through 64 of  
4 this Chapter, covering less than 10 persons, issued in North Carolina after January 1,  
5 1956, shall include in substance the following provision:

6       Renewability: This policy is renewable at the option of the policyholder unless  
7 sufficient notice of nonrenewal is given the policyholder in writing by the insurer.

8       Sufficient notice shall be, during the first year of any policy, or during the first year  
9 following any lapse and reinstatement, a period of 30 days ~~prior to~~before the premium  
10 due date. After one continuous year of coverage and acceptance of premium for any  
11 portion of the second or subsequent year sufficient notice shall be a number of full  
12 months most nearly equivalent to one fourth the number of months of continuous  
13 coverage from the ~~first anniversary of the date of issue or reinstatement,~~inception date of  
14 the policy, to the date of mailing of such ~~the~~ notice: Provided no period of required  
15 notice shall exceed two years."

16       Sec. 28. Article 63 of Chapter 58 of the General Statutes is amended by  
17 adding a new section to read:

18 **"§ 58-63-32. Cease and desist order.**

19       (a) If, after a hearing under G.S. 58-63-25, the Commissioner determines that the  
20 method of competition or the act or practice in question is defined in G.S. 58-63-15 and  
21 that the person complained of has engaged in the method of competition, act, or practice  
22 in violation of this Article, the Commissioner shall reduce his finding to writing and  
23 shall issue and cause to be served upon the person charged with the violation an order  
24 requiring the person to cease and desist from engaging in the method, act, or practice.

25       (b) Until the expiration of the time allowed under G.S. 58-63-35(a) for filing a  
26 petition for review, if no such petition has been duly filed within that time, then until the  
27 transcript of the record in the proceeding has been filed in court, the Commissioner may  
28 at any time, upon such notice and in such manner as the Commissioner considers  
29 proper, modify or set aside in whole or in part any order issued by the Commissioner  
30 under this section.

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

37       Sec. 29. G.S. 58-63-30 is repealed.

38       Sec. 30. Article 62 of Chapter 58 of the General Statutes is amended by  
39 adding a new section to read:

40 **"§ 58-62-92. Procedure for appeal to Commissioner from decision of Association.**

41       In any hearing called by the Commissioner for an appeal made under G.S. 58-62-  
42 90(b), no later than 20 days before the hearing the appellant shall file with the  
43 Commissioner or the Commissioner's designated hearing officer and shall serve on the  
44 appellee a written statement of the appellant's case and any evidence the appellant

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

13 Sec. 31. Article 48 of Chapter 58 of the General Statutes is amended by  
14 adding a new section to read:

15 **"§ 58-48-42. Procedure for appeal to Commissioner from decision of Association.**

16 In any hearing called by the Commissioner for an appeal made pursuant to G.S. 58-  
17 48-40(7), no later than 20 days before the hearing the appellant shall file with the  
18 Commissioner or the Commissioner's designated hearing officer and shall serve on the  
19 appellee a written statement of the appellant's case and any evidence the appellant  
20 intends to offer at the hearing. No later than five days before the hearing, the appellee  
21 shall file with the Commissioner or the Commissioner's designated hearing officer and  
22 shall serve on the appellant a written statement of the appellee's case and any evidence  
23 the appellee intends to offer at the hearing. Each hearing shall be recorded and  
24 transcribed. The cost of the recording and transcribing shall be borne equally by the  
25 appellant and the appellee. However, upon any final adjudication the prevailing party  
26 shall be reimbursed for that party's share of the costs by the other party. Each party  
27 shall, on a date determined by the Commissioner or the Commissioner's designated  
28 hearing officer, but not sooner than 15 days after delivery of the completed transcript to  
29 the party, submit to the Commissioner or the Commissioner's designated hearing officer  
30 and serve on the other party, a proposed order. The Commissioner or the  
31 Commissioner's designated hearing officer shall then issue an order."

32 Sec. 32. G.S. 58-7-75 reads as rewritten:

33 **"§ 58-7-75. Amount of capital and/or surplus required; impairment of capital or**  
34 **surplus.**

35 The amount of capital and/or surplus requisite to the formation and organization of  
36 companies under the provisions of Articles 1 through 64 of this Chapter shall be as  
37 follows:

38 (1) Stock Life Insurance Companies.

- 39 a- A stock corporation may be organized in the manner prescribed  
40 in ~~Articles 1 through 64 of~~ this Chapter and licensed to do the  
41 business of life insurance, only when it ~~shall have~~ has paid-in  
42 capital of at least six hundred thousand dollars (\$600,000) and a  
43 paid-in initial surplus of at least nine hundred thousand dollars  
44 (\$900,000), and it may in addition do the kind of business

1 specified in ~~subdivision (2) of G.S. 58-7-15(2),~~ (annuities),  
2 without having additional capital or surplus. Every such  
3 company shall at all times thereafter maintain a minimum  
4 capital of not less than six hundred thousand dollars (\$600,000)  
5 and a minimum surplus of at least one hundred fifty thousand  
6 dollars (\$150,000). Provided that, any such corporation may do  
7 either or both of the kinds of insurance authorized for stock,  
8 accident and health insurance companies, as set out in  
9 paragraphs a and b of subdivision (3) of G.S. 58-7-15  
10 (accidental death or personal injury, and noncancelable  
11 disability), where its charter so permits, and when and so long  
12 as it meets and maintains a minimum capital and surplus equal  
13 to the sum of the minimum capital and surplus requirements of  
14 this subdivision (1)a and the minimum capital and surplus  
15 requirements of subdivision (2)a and/or (2)b hereof as  
16 applicable.

17 ~~b. If the Commissioner, after such investigation as he may deem it~~  
18 ~~expedient to make, finds that a corporation may be organized to~~  
19 ~~do the business of life insurance, or the writing of annuities or~~  
20 ~~both, that its operations are restricted solely to one state, and~~  
21 ~~that the organization of such corporation is in the public~~  
22 ~~interest, he may permit the organization of a stock corporation~~  
23 ~~to do on such restricted plan either or both kinds of business~~  
24 ~~specified in subdivisions (1) and (2) of G.S. 58-7-15 (life~~  
25 ~~insurance and annuities), with the minimum paid in capital and~~  
26 ~~a minimum paid in initial surplus in an amount to be prescribed~~  
27 ~~by him, but in no event to be less than a paid in capital of four~~  
28 ~~hundred thousand dollars (\$400,000) and a paid in surplus of~~  
29 ~~six hundred thousand dollars (\$600,000). Every such company~~  
30 ~~shall at all times thereafter maintain such prescribed minimum~~  
31 ~~capital, or four hundred thousand dollars (\$400,000), whichever~~  
32 ~~is greater and a minimum surplus of at least one hundred~~  
33 ~~thousand dollars (\$100,000).~~

34 (2) Stock Accident and Health Insurance Companies.

35 a. A stock corporation may be organized in the manner prescribed  
36 in ~~Articles 1 through 64 of this Chapter and licensed to do only~~  
37 ~~the kind of insurance specified in subdivision (3)a of G.S. 58-7-~~  
38 ~~15(3)a, (accidental death or personal injury),~~ when it shall have a  
39 has paid-in capital of not less than four hundred thousand  
40 dollars (\$400,000), and a paid-in initial surplus of at least six  
41 hundred thousand dollars (\$600,000). Every such company  
42 shall at all times thereafter maintain a minimum capital of not  
43 less than four hundred thousand dollars (\$400,000) and a

- 1 minimum surplus of at least one hundred thousand dollars  
2 (\$100,000).
- 3 b. Any company organized under the provisions of paragraph a of  
4 this subdivision may, by the provisions of its original charter or  
5 any amendment thereto, acquire the power to do the kind of  
6 business specified in ~~paragraph b of subdivision (3) of G.S. 58-7-~~  
7 ~~15(3)b, (noncancelable disability insurance),~~ if it has a paid-in  
8 capital of at least six hundred thousand dollars (\$600,000) and a  
9 paid-in initial surplus of at least nine hundred thousand dollars  
10 (\$900,000). Every such company shall at all times maintain a  
11 minimum capital of not less than six hundred thousand dollars  
12 (\$600,000) and a minimum surplus of at least one hundred fifty  
13 thousand dollars (\$150,000).
- 14 (3) Stock Fire and Marine Companies. – A stock corporation may be  
15 organized in the manner prescribed in ~~Articles 1 through 64 of this~~  
16 ~~Chapter and licensed to do one or more of the kinds of insurance~~  
17 ~~specified in subdivisions G.S. 58-7-15 (4), (5), (6), (7), (8), (11), (12),~~  
18 ~~(19), (20), (21) and (22) of G.S. 58-7-15 only when it shall have~~ has  
19 a paid-in capital of not less than eight hundred thousand dollars  
20 (\$800,000) and a paid-in initial surplus of not less than one million  
21 two hundred thousand dollars (\$1,200,000). Every such company shall  
22 at all times thereafter maintain a minimum capital of not less than  
23 eight hundred thousand dollars (\$800,000) and a minimum surplus of  
24 at least two hundred thousand dollars (\$200,000). Provided that, any  
25 such corporation may do all the kinds of insurance authorized for  
26 casualty, fidelity and surety companies, as set out in subdivision (4)  
27 ~~hereof of this section~~ where its charter so permits, and when and so  
28 long as it meets and thereafter maintains a minimum capital and  
29 surplus equal to the sum of the minimum capital and surplus  
30 requirements of this subdivision ~~(3)~~ and the minimum capital and  
31 surplus requirements of subdivision (4) ~~hereof of this section~~.
- 32 (4) Stock Casualty and Fidelity and Surety Companies.  
33 ~~a-~~ A stock corporation may be organized in the manner prescribed  
34 in ~~Articles 1 through 64 of this Chapter and licensed to do one or~~  
35 ~~more of the kinds of insurance specified in subdivisions G.S. 58-~~  
36 ~~7-15 (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16),~~  
37 ~~(17), (18), (19), (21) and (22) of G.S. 58-7-15 only when it shall~~  
38 ~~have~~ has a paid-in capital of not less than one million dollars  
39 (\$1,000,000) and a paid-in initial surplus of not less than one  
40 million five hundred thousand dollars (\$1,500,000). Every such  
41 company shall at all times thereafter maintain a minimum  
42 capital of not less than one million dollars (\$1,000,000) and a  
43 minimum surplus of at least two hundred fifty thousand dollars  
44 (\$250,000).

1                   b.     ~~If the Commissioner, after such investigation as he may deem it~~  
2                   ~~expedient to make, finds that a corporation may be organized to~~  
3                   ~~do one or more of such kinds of insurance, that its operations~~  
4                   ~~are restricted solely to one state, and that the organization of~~  
5                   ~~such corporation is in the public interest, he may permit such~~  
6                   ~~corporation to be organized and licensed to write the lines set~~  
7                   ~~out in subsection a above with a paid in capital of not less than~~  
8                   ~~six hundred thousand dollars (\$600,000) and a paid in initial~~  
9                   ~~surplus of not less than nine hundred thousand dollars~~  
10                  ~~(\$900,000). Every such company shall hereafter maintain a~~  
11                  ~~minimum capital of not less than six hundred thousand dollars~~  
12                  ~~(\$600,000) and a minimum surplus of at least one hundred fifty~~  
13                  ~~thousand dollars (\$150,000). Provided that, any such casualty,~~  
14                  ~~fidelity and surety corporation may do all the kinds of insurance~~  
15                  ~~authorized for fire and marine companies, as set out in~~  
16                  ~~subdivision (3) hereof where its charter so permits, when and if~~  
17                  ~~it meets all additional requirements as to capital and surplus as~~  
18                  ~~fixed in said section, and maintains the same.~~

19                  (5)     Mutual Fire and Marine Companies.

20                  a.     Limited assessment companies. – A limited assessment mutual  
21                  company may be organized in the manner prescribed in ~~Articles 1~~  
22                  ~~through 64 of this Chapter and licensed to do one or more~~  
23                  ~~kinds of insurance specified in subdivisions G.S. 58-7-15 (4),~~  
24                  ~~(5), (6), (7), (8), (11), (12), (19), (20), (21) and (22) of G.S. 58-7-~~  
25                  ~~15 only when it has no less than five hundred thousand dollars~~  
26                  ~~(\$500,000) of insurance in not fewer than 500 separate risks~~  
27                  ~~subscribed with a paid-in initial surplus of at least three hundred~~  
28                  ~~thousand dollars (\$300,000), which surplus shall at all times be~~  
29                  ~~maintained. The assessment liability of a policyholder of a~~  
30                  ~~company organized in accordance with the provisions of this~~  
31                  ~~paragraph sub-subdivision shall not be limited to less than five~~  
32                  ~~annual premiums—premiums; provided, such—the limited~~  
33                  ~~assessment company may reduce the assessment liability of its~~  
34                  ~~policyholders from such five annual premiums as set out herein~~  
35                  ~~to one additional annual premium when the free surplus of such~~  
36                  ~~the company amounts to not less than three hundred thousand~~  
37                  ~~dollars (\$300,000), which surplus shall at all times be~~  
38                  ~~maintained.~~

39                  b.     Assessable mutual companies. – An assessable mutual company  
40                  may be organized in the manner prescribed in ~~Articles 1~~  
41                  ~~through 64 of this Chapter and licensed to do one or more of the kinds of~~  
42                  ~~insurance specified in subdivisions G.S. 58-7-15 (4), (5) and (6)~~  
43                  ~~(6), of G.S. 58-7-15 (fire, miscellaneous property and water~~  
44                  ~~damage),—with an unlimited assessment liability of its~~



1 policyholders only when it ~~shall have~~ has not less than five  
2 hundred thousand dollars (\$500,000) of insurance in not fewer  
3 than 500 separate risks subscribed with a paid-in initial surplus  
4 equal to twice the amount of the maximum net retained liability  
5 under the largest policy of insurance issued by ~~such~~ the  
6 company; but not less than sixty thousand dollars ~~(\$60,000)~~  
7 (\$60,000); which surplus shall at all times be maintained.  
8 Provided ~~such~~ the company, when its charter so permits, in  
9 addition may be licensed to do one or more of the kinds of  
10 insurance specified in ~~subdivisions~~ G.S. 58-7-15 (7), (8), (11),  
11 (12), (19), (20), (21) and ~~(22)~~ (22), of ~~G.S. 58-7-15~~, with an  
12 unlimited assessment liability of its policyholders, when its free  
13 surplus amounts to not less than sixty thousand dollars  
14 (\$60,000), which surplus shall at all times be maintained.

15 c. Nonassessable mutual companies. – A nonassessable mutual  
16 company may be organized in the manner prescribed in ~~Articles~~  
17 ~~1 through 64~~ of this Chapter and licensed to do one or more of  
18 the kinds of insurance specified in ~~subdivisions~~ G.S. 58-7-15 (4),  
19 (5), (6), (7), (8), (11), (12), (19), (20), (21) and (22) of ~~G.S. 58-7-~~  
20 ~~15~~ and may be authorized to issue policies under the terms of  
21 which a policyholder is not liable for any assessments in  
22 addition to the premium set out in the policy only when it ~~shall~~  
23 ~~have~~ has not less than five hundred thousand dollars (\$500,000)  
24 of insurance in not fewer than 500 separate risks subscribed  
25 with a paid-in initial surplus of not less than eight hundred  
26 thousand dollars (\$800,000), which surplus shall at all times be  
27 maintained.

28 d. Town or county mutual insurance companies. – A town or  
29 county mutual insurance company with unlimited assessment  
30 liability may be organized in the manner prescribed in ~~Articles~~  
31 ~~1 through 64~~ of this Chapter and licensed to do the kinds of  
32 insurance specified in ~~subdivision~~ (4) of ~~G.S. 58-7-15~~ ~~(fire)~~ G.S.  
33 58-7-15(4) only when it ~~shall have~~ has not less than fifty  
34 thousand dollars (\$50,000) of insurance in force in not fewer  
35 than 50 separate risks subscribed with a paid-in initial surplus  
36 of not less than fifteen thousand dollars (\$15,000), which  
37 surplus shall at all times be maintained. A town or county  
38 mutual insurance company may, in addition to writing the  
39 business specified in ~~subdivision~~ (4) of ~~G.S. 58-7-15~~ ~~(fire~~  
40 ~~insurance)~~, G.S. 58-7-15(4) cover in the same policy the hazards  
41 usually insured against under an extended coverage  
42 endorsement when ~~such~~ the company has not less than five  
43 hundred thousand dollars (\$500,000) of insurance in force in  
44 not fewer than 500 separate risks and maintains a surplus at all

1 times of not less than one hundred twenty thousand dollars  
2 ~~(\$120,000); and at all times maintains in addition to the surplus~~  
3 ~~hereinbefore required, an additional surplus of not less than twenty-~~  
4 ~~five thousand dollars (\$25,000) or not less than an amount equivalent~~  
5 ~~to one percent (1%) of the total amount of net retained insurance in~~  
6 ~~force, whichever is the larger sum: Provided, that such the~~  
7 company may not operate in more than six adjacent counties in  
8 this State. Any company authorized under this section before  
9 July 1, 1991, shall be permitted to continue to do the same  
10 kinds of business that it was authorized to do prior to July 1,  
11 1991, without being required to increase its surplus; however,  
12 the insurer shall increase its surplus to the required amounts on  
13 or before July 1, 1992. The requirements of this sub-  
14 subdivision as to surplus shall apply to such companies as a  
15 prerequisite to writing additional lines of business, and to such  
16 companies as a prerequisite to commencing business if  
17 unlicensed prior to July 1, 1991.

18 (6) Mutual Life, Accident and Health Insurance Companies. – A  
19 nonassessable mutual insurance company may be organized in the  
20 manner prescribed in ~~Articles 1 through 64 of this Chapter, and licensed~~  
21 ~~to do only one or more of the kinds of insurance specified in~~  
22 ~~subdivisions G.S. 58-7-15 (1), (2) and (3) of G.S. 58-7-15 (life, annuities,~~  
23 ~~and accident and health) when it has complied with the requirements of~~  
24 ~~Articles 1 through 64 of this Chapter and with those hereinafter set forth~~  
25 ~~in paragraphs sub-subdivisions a to through d of this subdivision,~~  
26 inclusive, whichever shall be applicable.

27 a. If organized to do only the kinds of insurance specified in  
28 ~~subdivisions G.S. 58-7-15 (1) and (2) of G.S. 58-7-15 (life~~  
29 ~~insurance and annuities), such the company shall have not less~~  
30 than 500 bona fide applications for life insurance in an  
31 aggregate amount not less than five hundred thousand dollars  
32 (\$500,000), and shall have received from each such applicant in  
33 cash the full amount of one annual premium on the policy for  
34 which the applicant applied, applied for by him, in an aggregate  
35 amount at least equal to ten thousand dollars (\$10,000), and  
36 shall in addition have a paid-in initial surplus of two hundred  
37 thousand dollars (\$200,000), and shall have and maintain at all  
38 times a minimum surplus of one hundred thousand dollars  
39 (\$100,000).

40 b. If organized to do only the kind of insurance specified in  
41 paragraph a of ~~subdivision G.S. 58-7-15 (3) of G.S. 58-7-15~~  
42 ~~(accidental death and personal injury), such the company shall~~  
43 have not less than 250 bona fide applications for ~~such that~~  
44 insurance, and shall have received from each ~~such~~ applicant in

- 1 cash the full amount of one annual premium on the policy for  
2 ~~which the applicant applied, applied for by him~~ in an aggregate  
3 amount of at least ten thousand dollars (\$10,000), and shall  
4 have a paid-in initial surplus of two hundred thousand dollars  
5 (\$200,000) and shall have and maintain at all times a minimum  
6 surplus of one hundred thousand dollars (\$100,000).
- 7 c. If organized to do the kinds of insurance specified in ~~subdivision~~  
8 ~~G.S. 58-7-15 (1) and (3)a, in paragraph a of subdivision (3) of G.S.~~  
9 ~~58-7-15 (life insurance and accidental death and injury), such the~~  
10 company shall have complied with the provisions of both  
11 ~~paragraphs sub-subdivisions a and b hereof of this subdivision.~~
- 12 d. If organized to do the kind of insurance specified in ~~paragraph b~~  
13 ~~of subdivision (3) of G.S. 58-7-15(3)b (noncancelable disability~~  
14 ~~insurance), in addition to the kind or kinds of insurance~~  
15 ~~designated in any one of the foregoing paragraphs preceding sub-~~  
16 ~~subdivisions of this subdivision, such the~~ company shall have a  
17 paid-in initial surplus of at least five hundred thousand dollars  
18 (\$500,000) and shall maintain a minimum surplus of at least  
19 three hundred thousand dollars (\$300,000).
- 20 (7) Organization of Mutual Casualty, Fidelity and Surety Companies.
- 21 a. Nonassessable, mutual companies. – A mutual insurance  
22 company with no assessment liability provided for its  
23 policyholders may be organized in the manner prescribed in  
24 ~~Articles 1 through 64 of this Chapter and licensed to do one or~~  
25 ~~more of the kinds of insurance specified in subdivisions G.S. 58-~~  
26 ~~7-15 (3), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16),~~  
27 ~~(17), (18), (19), (21) and (22) of G.S. 58-7-15 when it has a~~  
28 minimum paid-in initial surplus of one million dollars  
29 (\$1,000,000) and not less than five hundred thousand dollars  
30 (\$500,000) in insurance subscribed in not less than 500 separate  
31 risks. The surplus of ~~such the~~ company shall at all times be  
32 maintained at or above ~~the amount required hereinabove for~~  
33 ~~organization of such company. that amount.~~
- 34 b. Assessable mutual companies. – A mutual insurance company  
35 with assessment liability provided for its policyholders may be  
36 organized in the manner prescribed in ~~Articles 1 through 64 of~~  
37 ~~this Chapter and licensed to do one or more of the kinds of~~  
38 ~~insurance specified in subdivisions G.S. 58-7-15 (3), (6), (7), (8),~~  
39 ~~(9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (21)~~  
40 ~~and (22) of G.S. 58-7-15 when it has a minimum paid-in initial~~  
41 surplus of four hundred thousand dollars (\$400,000) and not  
42 less than five hundred thousand dollars (\$500,000) of insurance  
43 subscribed in not less than 500 separate risks. ~~Such The~~  
44 company shall at all times maintain a surplus in an amount not

- 1 less than four hundred thousand dollars (\$400,000). The  
2 assessment liability of a policyholder of ~~such~~the company shall  
3 not be limited to less than one annual premium.
- 4 (8) Organization of Mutual Multiple Line Companies.
- 5 a. Assessable mutual companies. – A company may do all the  
6 kinds of insurance authorized to be done by a company  
7 organized under the provisions of ~~paragraph a of subdivision (5)~~  
8 sub-subdivision (5)a, hereof (limited assessment mutual fire and  
9 marine companies), and paragraph b of subdivision (7) – sub-  
10 subdivision (7)b of this subdivision, hereof (assessable mutual  
11 easualty, fidelity and surety companies), where its charter so  
12 permits when and if it meets the combined minimum  
13 requirements of ~~said those paragraphs.~~ sub-subdivisions. The  
14 assessment liability of policyholders of such a company shall  
15 not be limited to less than one annual premium within any one  
16 policy year.
- 17 b. Nonassessable mutual companies. – A company may do all the  
18 kinds of insurance authorized to be done by a company  
19 organized under the provisions of ~~paragraph c of subdivision (5);~~  
20 sub-subdivision (5)c, hereof (nonassessable mutual fire and marine  
21 companies), and paragraph a of subdivision (7) – sub-subdivision  
22 (7)a of this subdivision, hereof (nonassessable mutual casualty,  
23 fidelity and surety companies), where its charter so permits when  
24 and if it meets the combined minimum requirements of ~~said~~  
25 those paragraphs. The policyholders of such a company shall  
26 not be subject to any assessment liability.
- 27 (9) ~~Time for Compliance. – Any domestic, foreign or alien company~~  
28 ~~licensed to do business in North Carolina prior to July 1, 1979, shall be~~  
29 ~~permitted to continue to do the same kinds of business which it was~~  
30 ~~authorized to do on such date without being required to increase its~~  
31 ~~capital and/or surplus, provided however, such insurers shall increase~~  
32 ~~the capital and surplus requirements to the amounts set forth in this~~  
33 ~~section G.S. 58-7-75 on or before July 1, 1987, but the requirements of~~  
34 ~~this section as to capital and surplus shall apply to such companies as a~~  
35 ~~prerequisite to writing additional lines of business, and to such~~  
36 ~~companies as a prerequisite to commencing business if unlicensed~~  
37 ~~prior to July 1, 1979.~~
- 38 (10) Impairment of Capital and/or Surplus. – Whenever the Commissioner  
39 finds from a financial statement made by any ~~such~~ company, or from a  
40 report of examination of any ~~such~~ company, that its admitted assets are  
41 less than the aggregate amount of its liabilities and its outstanding  
42 capital stock and/or required minimum surplus, ~~he~~the Commissioner  
43 shall determine the amount of ~~such~~the impairment of capital and/or  
44 surplus and issue an order in writing requiring the company to

1 eliminate the impairment within such period of not more than 90 days  
2 as ~~he~~ the Commissioner shall designate. The Commissioner may, by  
3 order served upon the company, prohibit the company from issuing  
4 any new policies while ~~such~~ the impairment exists. If at the expiration  
5 of the designated period the company has not satisfied the  
6 Commissioner that the impairment has been eliminated, an order for  
7 the rehabilitation or liquidation of the company may be entered as  
8 provided in Article 17A, ~~Chapter 58 of the General Statutes of North~~  
9 ~~Carolina.~~ 30 of this Chapter."

10 Sec. 33. G.S. 58-42-55 reads as rewritten:

11 **"§ 58-42-55. Expiration.**

12 This Article shall expire on July 1, ~~1991.~~ 1993."

13 Sec. 34. G.S. 143-143.13(a) reads as rewritten:

14 "(a) A license may be denied, suspended or revoked by the Board on any one or  
15 more of the following grounds:

- 16 (1) Material misstatement in application for license;
- 17 (2) Failure to post an adequate corporate surety bond, cash bond or fixed  
18 value equivalent thereof;
- 19 (3) Engaging in the business of manufactured home manufacturer, dealer,  
20 salesman or set-up contractor without first obtaining a license from the  
21 Board;
- 22 (4) Failure to comply with the warranty service obligations and claims  
23 procedure established by this Article;
- 24 (5) Failure to comply with the set-up and tie-down requirements  
25 established by this Article;
- 26 (6) Having knowingly failed or refused to account for or to pay over  
27 moneys or other valuables belonging to others which have come into  
28 licensee's possession arising out of the sale of manufactured homes;
- 29 (7) Use of unfair methods of competition or unfair or deceptive  
30 commercial acts or practices;
- 31 (8) Failure to comply with any provision of this Article;
- 32 (9) Failure to appear before the Board upon due notice or to follow  
33 directives of the Board issued pursuant to this Article;
- 34 (10) Employing unlicensed retail salesmen;
- 35 (11) Knowingly offering for sale the products of manufacturers who are not  
36 licensed pursuant to this Article or selling, to dealers not licensed  
37 pursuant to this Article, manufactured homes which are to be sold in  
38 this State to buyers as defined in this Article;
- 39 (12) Conviction of a felony or any crime involving moral turpitude;
- 40 (13) Having had a license revoked, suspended or denied by the Board under  
41 this Article; or having had a license revoked, suspended or denied by a  
42 similar entity in another state; or engaging in conduct in another state  
43 which conduct, if committed in this State, would have been a violation  
44 under this ~~Article.~~ Article;

1           (14) Knowingly engaging any person to perform set-up operations who is  
2           not licensed by the Board as a set-up contractor."

3           Sec. 35. G.S. 143-143.11(a) reads as rewritten:

4           "(a) It shall be unlawful for any manufactured home manufacturer, dealer,  
5 salesman or set-up contractor to engage in business as such in this State without first  
6 obtaining a license from the ~~North Carolina Manufactured Housing Board~~, as provided in  
7 this Article. The fact that a person is licensed by the Board as a set-up contractor or a  
8 dealer does not preempt any other licensing boards' applicable requirements for that  
9 person."

10           Sec. 36. Article 9A of Chapter 143 of the General Statutes is amended by  
11 adding a new section to read:

12 **"§ 143-143.25. Staff support for Board.**

13           The Manufactured Housing Division of the Department shall provide clerical and  
14 other staff services required by the Board; and shall administer and enforce all  
15 provisions of this Article and all rules adopted under this Article, subject to the direction  
16 of the Board; except for powers and duties delegated by this Article to local units of  
17 government, other State agencies, or to any persons."

18           Sec. 37. G.S. 58-50-40 reads as rewritten:

19 **"§ 58-50-40. Willful failure to pay group insurance premiums; notice to persons**  
20 **insured; penalty; restitution; examination of insurance transactions.**

21           (a) As used in this section and in G.S. 58-50-45, the term 'group health  
22 insurance' means: (1) any policy described in G.S. 58-51-75, 58-51-80, or 58-51-90; (2)  
23 any group insurance certificate or group subscriber contract issued by a hospital service  
24 corporation pursuant to Articles 65 and 66 of this Chapter; (3) any health care plan  
25 provided or arranged by a health maintenance organization pursuant to Article 67 of this  
26 Chapter; or (4) any multiple employer welfare arrangement as defined in G.S. 58-49-  
27 30(a). As used in this section and in G.S. 58-50-45, the term 'insurance fiduciary' means  
28 any person, employer, principal, agent, trustee, or third party administrator, who is  
29 responsible for the payment of group health or group life insurance premiums. As used  
30 in this section and in G.S. 58-50-45, 'premiums' includes contributions to a multiple  
31 employer welfare arrangement.

32           (b) No insurance fiduciary shall:

33           (1) Cause the cancellation or nonrenewal of group health or group life  
34 insurance and the consequential loss of the coverages of the persons  
35 insured by willfully failing to pay such premiums in accordance with  
36 the terms of a group health or group life insurance contract; and

37           (2) Willfully fail to deliver, at least ~~30-45~~ 30-45 days ~~prior to~~ prior to the  
38 termination of such insurance, to ~~each named insured~~ all persons  
39 covered by the group policy a written notice of the insurance  
40 fiduciary's intention to stop payment of premiums.

41           (c) Any insurance fiduciary who violates subsection (b) of this section shall be  
42 guilty of a Class J felony if ~~the group health or life insurance was, in whole or in part,~~  
43 ~~paid for out of wages withheld or other funds collected from the persons insured.~~ felony.

1 (d) Any insurance fiduciary who violates subsection (b) of this section shall be  
2 subject only to the court order for restitution provided for in subsection (e) of this  
3 section if the group health or life insurance covered 15 or more persons and was fully  
4 paid for by the insurance fiduciary.

5 (e) Upon conviction under subsection (c) or a finding under subsection (d) of this  
6 section of a violation of subsection (b) of this section the court shall order the  
7 insurance fiduciary to make full restitution to persons insured who incurred expenses  
8 that would have been covered by the group health insurance or full restitution to  
9 beneficiaries of the group life insurance for death benefits that would have been paid if  
10 the coverage had not been terminated.

11 (f) Insurance fiduciaries subject to this section shall be subject to the provisions  
12 of G.S. 58-2-200 with respect only to transactions involving group health or life  
13 insurance.

14 (g) In the notice required by subsection (b) of this section, the insurance fiduciary  
15 shall also notify ~~the persons insured~~ those persons of their rights to health insurance  
16 conversion policies under Article 53 of this Chapter and their rights under the federal  
17 Consolidated Omnibus Budget Reconciliation Act (COBRA).

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

24 Sec. 38. G.S. 58-50-45 reads as rewritten:

25 "**§ 58-50-45. Group health or life insurers to notify insurance fiduciaries of**  
26 **obligations.**

27 (a) On and after January 1, 1986, upon the issuance or renewal of any policy,  
28 contract, certificate, or evidence of coverage of group health or life insurance, the  
29 insurer, corporation, or health maintenance organization shall give written notice to the  
30 insurance fiduciary of the provisions of G.S. 58-50-40.

31 (b) The notice required by subsection (a) of this section shall be printed in 10  
32 point type and shall read as follows:

33 'UNDER NORTH CAROLINA GENERAL STATUTE SECTION 58-50-40, NO  
34 PERSON, EMPLOYER, PRINCIPAL, AGENT, TRUSTEE, OR THIRD PARTY  
35 ADMINISTRATOR, WHO IS RESPONSIBLE FOR THE PAYMENT OF GROUP  
36 HEALTH OR LIFE INSURANCE OR HEALTH CARE PLAN PREMIUMS, FOR  
37 WHICH PAYMENT WAGES OR OTHER FUNDS ARE WITHHELD FROM THE  
38 PERSONS INSURED, PREMIUMS, SHALL: (1) CAUSE THE  
39 CANCELLATION OR NONRENEWAL OF GROUP HEALTH OR LIFE  
40 INSURANCE, HOSPITAL, MEDICAL, OR DENTAL SERVICE PLAN, MULTIPLE  
41 EMPLOYER WELFARE ARRANGEMENT, OR HEALTH CARE PLAN  
42 COVERAGES AND THE CONSEQUENTIAL LOSS OF THE COVERAGES OF  
43 THE PERSONS INSURED, BY WILLFULLY FAILING TO PAY SUCH  
44 PREMIUMS IN ACCORDANCE WITH THE TERMS OF THE INSURANCE OR

1 PLAN CONTRACT, AND (2) WILLFULLY FAIL TO DELIVER, AT LEAST ~~30-45~~  
2 DAYS PRIOR TO THE TERMINATION OF SUCH COVERAGES, TO ~~EACH~~  
3 ~~NAMED INSURED-ALL PERSONS COVERED BY THE GROUP POLICY A~~  
4 WRITTEN NOTICE OF THE PERSON'S INTENTION TO STOP PAYMENT OF  
5 PREMIUMS. THIS WRITTEN NOTICE MUST ALSO CONTAIN A NOTICE TO  
6 ~~THE NAMED INSUREDS-ALL PERSONS COVERED BY THE GROUP POLICY OF~~  
7 THEIR RIGHTS TO HEALTH INSURANCE CONVERSION POLICIES UNDER  
8 ARTICLE 53 OF GENERAL STATUTES CHAPTER 58 AND THEIR RIGHTS  
9 UNDER THE FEDERAL CONSOLIDATED OMNIBUS BUDGET  
10 RECONCILIATION ACT (COBRA). VIOLATION OF THIS LAW IS A FELONY ~~IF~~  
11 ~~THE INSURANCE IS, IN WHOLE OR IN PART, PAID FOR OUT OF WAGES~~  
12 ~~WITHHELD OR OTHER FUNDS COLLECTED FROM THE PERSONS INSURED.~~  
13 FELONY. ANY PERSON VIOLATING THIS LAW IS ALSO SUBJECT TO A  
14 COURT ORDER REQUIRING THE PERSON TO COMPENSATE PERSONS  
15 INSURED FOR EXPENSES OR LOSSES INCURRED AS A RESULT OF THE  
16 TERMINATION OF THE INSURANCE."

17 Sec. 39. G.S. 58-36-10 reads as rewritten:

18 **"§ 58-36-10. Method of rate making; factors considered.**

19 The following standards shall apply to the making and use of rates:

- 20 (1) Rates shall not be excessive, inadequate or unfairly discriminatory.  
21 (2) Due consideration shall be given to actual loss and expense experience  
22 within this State for the most recent three-year period for which such  
23 information is available; to prospective loss and expense experience  
24 within this State; to the hazards of conflagration and catastrophe; to a  
25 reasonable margin for underwriting profit and to contingencies; to  
26 dividends, savings, or unabsorbed premium deposits allowed or  
27 returned by insurers to their policyholders, members, or subscribers; to  
28 investment income earned or realized by insurers from their unearned  
29 premium, loss, and loss expense reserve funds generated from business  
30 within this State; to past and prospective expenses specially applicable  
31 to this State; and to all other relevant factors within this State:  
32 Provided, however, that countrywide expense and loss experience and  
33 other countrywide data may be considered only where credible North  
34 Carolina experience or data is not available.  
35 (3) In the case of fire insurance rates, as are subject to the ratemaking  
36 authority of the Bureau, consideration may be given to the experience  
37 of such fire insurance business during the most recent five-year period  
38 for which such experience is available. In the case of fire insurance  
39 rates that are subject to the ratemaking authority of the Bureau,  
40 consideration shall be given to the insurance public protection  
41 classifications of rural fire districts based upon standards established  
42 by the Commissioner. To the extent credits are provided for proximity  
43 to fire hydrants, the Bureau may also provide appropriate credits in  
44 public protection classifications for optional water sources, such as



1 ponds, lakes, or other bodies of water, in accordance with standards  
2 and procedures filed with and approved by the Commissioner.

- 3 (4) Risks may be grouped by classifications and lines of insurance for  
4 establishment of rates and base premiums. Classification rates may be  
5 modified to produce rates for individual risks in accordance with rating  
6 plans which establish standards for measuring variations in hazards or  
7 expense provisions or both. Such standards may measure any  
8 differences among risks that can be demonstrated to have a probable  
9 effect upon losses or expenses. The Bureau is directed to establish and  
10 implement a comprehensive classification rating plan for motor  
11 vehicle insurance under its jurisdiction within 90 days of September 1,  
12 1977. No such classification plans shall base any standard or rating  
13 plan for private passenger (nonfleet) motor vehicles, in whole or in  
14 part, directly or indirectly, upon the age or sex of the persons insured.  
15 The Bureau shall at least once every three years make a complete  
16 review of the filed classification rates to determine whether they are  
17 proper and supported by statistical evidence, and shall at least once  
18 every 10 years make a complete review of the territories for nonfleet  
19 private passenger motor vehicle insurance to determine whether they  
20 are proper and reasonable.

- 21 (5) In the case of workers' compensation insurance and employers'  
22 liability insurance written in connection therewith, due consideration  
23 shall be given to the past and prospective effects of changes in  
24 compensation benefits and in legal and medical fees that are provided  
25 for in General Statutes Chapter 97."

26 Sec. 40. G.S. 58-40-25 reads as rewritten:

27 **"§ 58-40-25. Rating methods.**

28 In determining whether rates comply with the standards under G.S. 58-40-20, the  
29 following criteria shall be applied:

- 30 (1) Due consideration shall be given to past and prospective loss and  
31 expense experience within this State, to catastrophe hazards, to a  
32 reasonable margin for underwriting profit and contingencies, to trends  
33 within this State, to dividends or savings to be allowed or returned by  
34 insurers to their policyholders, members, or subscribers, and to all  
35 other relevant factors, including judgment factors; ~~Provided, however,~~  
36 ~~that however,~~ regional or countrywide expense or loss experience and  
37 other regional or countrywide data may be considered only when  
38 credible North Carolina expense or loss experience or other data is not  
39 available.
- 40 (2) Risks may be grouped by classifications for the establishment of rates  
41 and minimum premiums. Classification rates may be modified to  
42 produce rates for individual risks in accordance with rating plans  
43 which establish standards for measuring variations in hazards or  
44 expense provisions, or both. ~~Such~~ Those standards may measure any

1 differences among risks that have probable effect upon losses or  
2 expenses. Classifications or modifications of classifications of risks  
3 may be established based upon size, expense, management, individual  
4 experience, location or dispersion of hazard, or any other reasonable  
5 considerations. ~~Such~~ Those classifications and modifications shall  
6 apply to all risks under the same or substantially the same  
7 circumstances or conditions.

8 (3) The expense provisions included in the rates to be used by an insurer  
9 may reflect the operating methods of the insurer and, as far as it is  
10 credible, its own expense experience.

11 (4) With respect to fire insurance, to the extent credits are provided for  
12 proximity to fire hydrants, insurers may also provide appropriate  
13 credits in public protection classifications for optional water sources,  
14 such as ponds, lakes, or other bodies of water, in accordance with  
15 standards and procedures filed with and approved by the  
16 Commissioner."

17 Sec. 41. G.S. 58-21-65 is amended by adding a new subsection to read:

18 "(f) A person licensed as a surplus lines licensee under the laws of a state  
19 bordering this State may be licensed as a surplus lines licensee under this Article, if: (i)  
20 the laws of the bordering state are substantially similar to the provisions of this Article  
21 and (ii) the bordering state has a law or regulation substantially similar to this  
22 subsection that permits surplus lines licensees licensed under this Article to be licensed  
23 by the bordering state and (iii) the person complies with all requirements of this Article  
24 and submits himself or herself to the Commissioner's jurisdiction."

25 Sec. 42. G.S. 58-21-75 reads as rewritten:

26 "**§ 58-21-75. Records of surplus lines licensee.**

27 Each surplus lines licensee shall keep in his or her office in this State a full and true  
28 record of each surplus lines insurance contract placed by or through ~~him~~, the licensee,  
29 including a copy of the policy, certificate, cover note, or other evidence of ~~insurance,~~  
30 ~~which insurance.~~ The record shall include the following items:

- 31 (1) Amount of the insurance and perils insured;
- 32 (2) Brief description of the property insured and its location;
- 33 (3) Gross premium charged;
- 34 (4) Any return premium paid;
- 35 (5) Rate of premium charged upon the several items of property;
- 36 (6) Effective date of the contract, and the terms ~~thereof;~~ of the contract;
- 37 (7) Name and address of the insured;
- 38 (8) Name and address of the insurer;
- 39 (9) Amount of tax and other sums to be collected from the insured; and
- 40 (10) Identity of the producing broker, any confirming correspondence from  
41 the insurer or its representative, and the application.

42 The record of each contract shall be kept open at all reasonable times to examination by  
43 the Commissioner without notice for a period not less than ~~five~~ three years following  
44 termination of the contract."

1           Sec. 43. G.S. 58-1-20 reads as rewritten:

2   "**§ 58-1-20. Real property warranties.**

3       (a) Any warranty relating to ~~tangible personal property or~~ fixtures to real  
4 property issued ~~in connection with the sale of real property~~ by a person as defined in  
5 ~~this Article shall be~~ is a contract of insurance, except the following, ~~which shall not be~~  
6 ~~contracts of insurance:~~ following:

7           (1) A warranty made by a builder or seller of the real property;

8           (2) A warranty ~~incidental to the sale of real property~~ providing for the repair  
9 or replacement of the items covered by the warranty for defective parts  
10 and mechanical failure or resulting from ordinary wear and tear, ~~which~~  
11 ~~warranty excludes and excluding from its coverage damage from~~  
12 ~~recognizable perils-perils~~, such as fire, flood, and wind, ~~which perils do~~  
13 ~~not that neither~~ relate to any defect in the items covered nor result from  
14 ordinary wear and tear. ~~Any person issuing such warranties shall post a~~  
15 ~~surety bond with the Secretary of State in the principal sum of not less than~~  
16 ~~seventy five thousand dollars (\$75,000), which bond shall be subject to the~~  
17 ~~approval of the Secretary of State. Any person to whom the warranty is~~  
18 ~~issued has the right to institute an action to recover against the warrantor and~~  
19 ~~the surety bond for breach of warranty.~~

20       (b) It is unlawful for any person to issue a warranty specified in subdivision  
21 (a)(2) of this section unless that person has posted a surety bond with the Secretary of  
22 State in the principal sum of not less than one hundred thousand dollars (\$100,000).  
23 The bond must be issued by a surety company licensed to do business in this State and  
24 is subject to the approval of the Secretary of State. Any person to whom the warranty is  
25 issued may institute an action to recover against the warrantor and the surety bond for  
26 any breach of warranty."

27       Sec. 44. Sections 8, 9, and 12 of this act become effective September 1,  
28 1991. Sections 1, 15, 16, 19, 22, 23, 28, 37 through 41, and 43 of this act become  
29 effective October 1, 1991. The remainder of this act is effective upon ratification.