

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 626*
House Committee Substitute Favorable 6/23/94

Short Title: Insurer Capital and Technical Amendments.

(Public)

Sponsors:

Referred to:

March 30, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO ADOPT RISK-BASED CAPITAL REQUIREMENTS FOR LIFE AND
3 HEALTH INSURANCE COMPANIES, TO MAKE CORRECTIONS AND
4 TECHNICAL AMENDMENTS IN THE INSURANCE LAWS, AND TO AMEND
5 THE SCHOLARSHIP PROVISIONS OF THE FIREMEN'S RELIEF FUND IN
6 THE INSURANCE CODE.

7 The General Assembly of North Carolina enacts:

8 Section 1. Article 12 of Chapter 58 of the General Statutes is amended by
9 adding the following sections:

10 "**§ 58-12-2. Definitions.**

11 As used in this Article, the following terms have the following meanings:

- 12 (1) Adjusted Risk-Based Capital Report. – A risk-based capital report that
13 has been adjusted by the Commissioner under G.S. 58-12-6(c).
- 14 (2) Corrective Order. – An order issued by the Commissioner specifying
15 corrective actions that the Commissioner has determined are required.
- 16 (3) Domestic Insurer. – Any life or health insurance company organized in
17 this State under Article 7 of this Chapter.
- 18 (4) Foreign Insurer. – Any life or health insurance company that is
19 admitted to do business in this State under Article 16 of this Chapter
20 but is not domiciled in this State.
- 21 (5) Negative Trend. – A negative trend over a period of time, as
22 determined in accordance with the 'Trend Test Calculation' included in
23 the risk-based capital instructions.

- 1 (6) Risk-Based Capital Instructions. – The risk-based capital report
2 including risk-based capital instructions adopted by the NAIC, as those
3 risk-based capital instructions may be amended by the NAIC from
4 time to time in accordance with the procedures adopted by the NAIC.
- 5 (7) Risk-Based Capital Level. – An insurer's company action level risk-
6 based capital, regulatory action level risk-based capital, authorized
7 control level risk-based capital, or mandatory control level risk-based
8 capital where:
- 9 a. 'Company Action Level Risk-Based Capital' means, with
10 respect to any insurer, the product of 2.0 and its authorized
11 control level risk-based capital.
- 12 b. 'Regulatory Action Level Risk-Based Capital' means the
13 product of 1.5 and its authorized control level risk-based
14 capital.
- 15 c. 'Authorized Control Level Risk-Based Capital' means the
16 number determined under the risk-based capital formula in
17 accordance with the risk-based capital instructions.
- 18 d. 'Mandatory Control Level Risk-Based Capital' means the
19 product of .70 and the authorized control level risk-based
20 capital.
- 21 (8) Risk-Based Capital Plan. – A comprehensive financial plan containing
22 the elements specified in G.S. 58-12-11(b). If the Commissioner
23 rejects the risk-based capital plan, and it is revised by the insurer, with
24 or without the Commissioner's recommendation, the plan shall be
25 called the 'Revised Risk-Based Capital Plan'.
- 26 (9) Risk-Based Capital Report. – The report required in G.S. 58-12-6.
- 27 (10) Total Adjusted Capital. – The sum of:
- 28 a. An insurer's statutory capital and surplus; and
29 b. Such other items, if any, as the risk-based capital instructions
30 may provide.

31 **§ 58-12-6. Risk-Based Capital Reports.**

32 (a) Every domestic insurer shall, on or before each March 15 (the 'filing date'),
33 prepare and submit to the Commissioner a report of its risk-based capital levels as of the
34 end of the calendar year just ended, in a form and containing such information as is
35 required by the risk-based capital instructions. In addition, every domestic insurer shall
36 file its risk-based capital report:

- 37 (1) With the NAIC in accordance with the risk-based capital instructions;
38 and
- 39 (2) With the insurance regulator in any state in which the insurer is
40 authorized to do business, if the Commissioner has notified the insurer
41 of its request in writing, in which case the insurer shall file its risk-
42 based capital report not later than the later of:
- 43 a. Fifteen days after the receipt of notice to file its risk-based
44 capital report with that state; or

1 b. The filing date.

2 **(b)** An insurer's risk-based capital shall be determined in accordance with the
3 formula set forth in the risk-based instructions. The formula shall take into account
4 (and may adjust for the covariance between):

5 (1) The risk with respect to the insurer's assets;

6 (2) The risk of adverse insurance experience with respect to the insurer's
7 liabilities and obligations;

8 (3) The interest rate risk with respect to the insurer's business; and

9 (4) All other business risks and such other relevant risks as are set forth in
10 the risk-based capital instructions.

11 These risks shall be determined in each case by applying the factors in the manner set
12 forth in the risk-based capital instructions.

13 **(c)** If a domestic insurer files a risk-based capital report that in the judgment of
14 the Commissioner is inaccurate, the Commissioner shall adjust the risk-based capital
15 report to correct the inaccuracy and shall notify the insurer of the adjustment. The
16 notice shall contain a statement of the reason for the adjustment. A risk-based capital
17 report as adjusted is referred to as an 'adjusted risk-based capital report'.

18 **"§ 58-12-11. Company Action Level Event.**

19 **(a)** 'Company Action Level Event' means any of the following events:

20 (1) The filing of a risk-based capital report by an insurer that indicates
21 that:

22 a. The insurer's total adjusted capital is greater than or equal to its
23 regulatory action level risk-based capital but less than its
24 company action level risk-based capital; or

25 b. The insurer has total adjusted capital that is greater than or
26 equal to its company action level risk-based capital but less than
27 the product of its authorized control level risk-based capital and
28 2.5 and has a negative trend.

29 (2) The notification by the Commissioner to the insurer of an adjusted
30 risk-based capital report that indicates the event in sub-subdivision
31 (1)a. or b. of this subsection if the insurer does not challenge the
32 adjusted risk-based capital report under G.S. 58-12-30.

33 (3) If the insurer challenges an adjusted risk-based capital report that
34 indicates the event in sub-subdivision (1)a. or b. of this subsection
35 under G.S. 58-12-30, the notification by the Commissioner to the
36 insurer that the Commissioner has rejected the insurer's challenge.

37 **(b)** In the event of a company action level event, the insurer shall prepare and
38 submit to the Commissioner a comprehensive financial plan that:

39 (1) Identifies the conditions in the insurer that contribute to the company
40 action level event.

41 (2) Contains proposals of corrective actions that the insurer intends to take
42 and would be expected to result in the elimination of the company
43 action level event.

- 1 (3) Provides forecasts of the insurer's financial results in the current year
2 and at least the four succeeding years, both in the absence of proposed
3 corrective actions and giving effect to the proposed corrective actions,
4 including forecasts of statutory operating income, net income, capital,
5 or surplus (the forecasts for both new and renewal business should
6 include separate forecasts for each major line of business and
7 separately identify each significant income, expense, and benefit
8 component).
- 9 (4) Identifies the key assumptions affecting the insurer's forecasts and the
10 sensitivity of the forecasts to the assumptions.
- 11 (5) Identifies the quality of, and problems associated with, the insurer's
12 business, including its assets, anticipated business growth and
13 associated surplus strain, extraordinary exposure to risk, mix of
14 business, and use of reinsurance in each case, if any.
- 15 (c) The risk-based capital plan shall be submitted:
- 16 (1) Within 45 days after the company action level event; or
17 (2) If the insurer challenges an adjusted risk-based capital report pursuant
18 to G.S. 58-12-30, within 45 days after notification to the insurer that
19 the Commissioner has rejected the insurer's challenge.
- 20 (d) Within 60 days after the submittal by an insurer of a risk-based capital plan to
21 the Commissioner, the Commissioner shall notify the insurer whether the risk-based
22 capital plan shall be implemented or is, in the judgment of the Commissioner,
23 unsatisfactory. If the Commissioner determines the risk-based capital plan is
24 unsatisfactory, the notification to the insurer shall set forth the reasons for the
25 determination, and may set forth proposed revisions that will render the risk-based
26 capital plan satisfactory, in the judgment of the Commissioner. Upon notification from
27 the Commissioner, the insurer shall prepare a revised risk-based capital plan, which may
28 incorporate by reference any revisions proposed by the Commissioner, and shall submit
29 the revised risk-based capital plan to the Commissioner:
- 30 (1) Within 45 days after notification from the Commissioner; or
31 (2) If the insurer challenges the notification from the Commissioner under
32 G.S. 58-12-30, within 45 days after a notification to the insurer that the
33 Commissioner has rejected the insurer's challenge.
- 34 (e) In the event of a notification by the Commissioner to an insurer that the
35 insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory, the
36 Commissioner may, subject to the insurer's right to a hearing under G.S. 58-12-30,
37 specify in the notification that the notification constitutes a regulatory action level
38 event.
- 39 (f) Every domestic insurer that files a risk-based capital plan or revised risk-
40 based capital plan with the Commissioner shall file a copy of the risk-based capital plan
41 or revised risk-based capital plan with the insurance regulator in any state in which the
42 insurer is authorized to do business if:
- 43 (1) That state has a risk-based capital provision substantially similar to
44 G.S. 58-12-21(a); and

- 1 (2) The insurance regulator of that state has notified the insurer of its
2 request for the filing in writing, in which case the insurer shall file a
3 copy of the risk-based capital plan or revised risk-based capital plan in
4 that state no later than the later of:
5 a. Fifteen days after the receipt of notice to file a copy of its risk-
6 based capital plan or revised risk-based capital plan with the
7 state; or
8 b. The date on which the risk-based capital plan or revised risk-
9 based capital plan is filed under G.S. 58-12-30(c).

10 **"§ 58-12-16. Regulatory Action Level Event.**

11 (a) 'Regulatory Action Level Event' means, with respect to any insurer, any of
12 the following events:

- 13 (1) The filing of a risk-based capital plan report by the insurer that
14 indicates that the insurer's total adjusted capital is greater than or equal
15 to its authorized control level risk-based capital but less than its
16 regulatory action level risk-based capital.
17 (2) The notification by the Commissioner to an insurer of an adjusted risk-
18 based capital report that indicates the event in subdivision (1) of this
19 subsection, if the insurer does not challenge the adjusted risk-based
20 capital report under G.S. 58-12-30.
21 (3) If the insurer challenges an adjusted risk-based capital report that
22 indicates the event in subdivision (1) of this subsection under G.S. 58-
23 12-30, the notification by the Commissioner to the insurer that the
24 Commissioner has rejected the insurer's challenge.
25 (4) The failure of the insurer to file a risk-based capital report by the filing
26 date, unless the insurer has provided an explanation for the failure that
27 is satisfactory to the Commissioner and has cured the failure within 10
28 days after the filing date.
29 (5) The failure of the insurer to submit a risk-based capital plan to the
30 Commissioner within the time period set forth in G.S. 58-12-11(c).
31 (6) Notification by the Commissioner to the insurer that:
32 a. The risk-based capital plan or revised risk-based capital plan
33 submitted by the insurer is, in the judgment of the
34 Commissioner, unsatisfactory; and
35 b. The notification constitutes a regulatory action level event with
36 respect to the insurer, provided the insurer has not challenged
37 the determination under G.S. 58-12-30.
38 (7) If the insurer challenges a determination by the Commissioner under
39 subdivision (6) of this subsection pursuant to G.S. 58-12-30, the
40 notification by the Commissioner to the insurer that the Commissioner
41 has rejected the challenge.
42 (8) Notification by the Commissioner to the insurer that the insurer has
43 failed to adhere to its risk-based capital plan or revised risk-based
44 capital plan; but only if the failure has a substantial adverse effect on

1 the ability of the insurer to eliminate the company action level event in
2 accordance with its risk-based capital plan or revised risk-based capital
3 plan and the Commissioner has so stated in the notification, provided
4 the insurer has not challenged the determination under G.S. 58-12-30.

5 (9) If the insurer challenges a determination by the Commissioner under
6 subdivision (8) of this subsection pursuant to G.S. 58-12-30, the
7 notification by the Commissioner to the insurer that the Commissioner
8 has rejected the challenge (unless the failure of the insurer to adhere to
9 its risk-based capital plan or revised risk-based capital plan has no
10 substantial adverse effect on the ability of the insurer to eliminate the
11 regulatory action level event with respect to the insurer).

12 (b) In the event of a regulatory action level event the Commissioner shall:

13 (1) Require the insurer to prepare and submit a risk-based capital plan or,
14 if applicable, a revised risk-based capital plan.

15 (2) Perform such examination or analysis, as the Commissioner deems
16 necessary, of the assets, liabilities, and operations of the insurer,
17 including a review of its risk-based capital plan or revised risk-based
18 capital plan.

19 (3) After the examination or analysis, issue an order specifying such
20 corrective actions as the Commissioner shall determine are required (a
21 'Corrective Order').

22 (c) In determining corrective actions, the Commissioner may take into account
23 such factors as are deemed relevant with respect to the insurer based upon the
24 Commissioner's examination or analysis of the assets, liabilities, and operations of the
25 insurer, including, but not limited to, the results of any sensitivity tests undertaken
26 pursuant to risk-based capital instructions. The risk-based capital plan or revised risk-
27 based capital plan shall be submitted:

28 (1) Within 45 days after the occurrence of the regulatory action level
29 event;

30 (2) If the insurer challenges an adjusted risk-based capital report pursuant
31 to G.S. 58-12-30 and the challenge is not in the judgment of the
32 Commissioner frivolous, within 45 days after the notification to the
33 insurer that the Commissioner has, after a hearing, rejected the
34 insurer's challenge; or

35 (3) If the insurer challenges a revised risk-based capital plan under G.S.
36 58-12-30, within 45 days after notification to the insurer that the
37 Commissioner has rejected the challenge.

38 (d) The Commissioner may retain actuaries and investment experts and other
39 consultants as may be necessary in the judgment of the Commissioner to review the
40 insurer's risk-based capital plan or revised risk-based capital plan, examine or analyze
41 the assets, liabilities, and operations of the insurer and formulate the Corrective Order
42 with respect to the insurer. The fees, costs, and expenses relating to consultants shall be
43 borne by the affected insurer or such other party as directed by the Commissioner.

44 "§ 58-12-21. Authorized Control Level Event.

1 (a) 'Authorized Control Level Event' means any of the following events:

- 2 (1) The filing of a risk-based capital report by the insurer that indicates
3 that the insurer's total adjusted capital is greater than or equal to its
4 mandatory control level risk-based capital but less than its authorized
5 control level risk-based capital.
- 6 (2) The notification by the Commissioner to the insurer of an adjusted
7 risk-based capital report that indicates the event in subdivision (1) of
8 this subsection if the insurer does not challenge the adjusted risk-based
9 capital report under G.S. 58-12-30.
- 10 (3) If the insurer challenges an adjusted risk-based capital report that
11 indicates the event in subdivision (1) of this subsection under G.S. 58-
12 12-30, notification by the Commissioner to the insurer that the
13 Commissioner has rejected the challenge.
- 14 (4) The failure of the insurer to respond, in a manner satisfactory to the
15 Commissioner, to a Corrective Order if the insurer has not challenged
16 the Corrective Order under G.S. 58-12-30.
- 17 (5) If the insurer has challenged a Corrective Order under G.S. 58-12-30
18 and the Commissioner has rejected the challenge or modified the
19 Corrective Order, the failure of the insurer to respond, in a manner
20 satisfactory to the Commissioner, to the Corrective Order after the
21 rejection or modification by the Commissioner.

22 (b) In the event of an authorized control level event with respect to an insurer, the
23 Commissioner shall:

- 24 (1) Take such actions as are required under G.S. 58-12-30 regarding an
25 insurer with respect to which a regulatory action level event has
26 occurred; or
- 27 (2) If the Commissioner deems it to be in the best interests of the
28 policyholders and creditors of the insurer and of the public, take such
29 actions as are necessary to cause the insurer to be placed under
30 regulatory control under Article 30 of this Chapter. If the
31 Commissioner takes such actions, the authorized control level event
32 shall be deemed sufficient grounds for the Commissioner to take
33 action under Article 30 of this Chapter, and the Commissioner shall
34 have the rights, powers, and duties with respect to the insurer as are set
35 forth in Article 30 of this Chapter. If the Commissioner takes actions
36 under this subdivision pursuant to an adjusted risk-based capital report,
37 the insurer shall be entitled to such protections as are afforded to
38 insurers under the provisions of Article 30 of this Chapter pertaining to
39 summary proceedings.

40 **"§ 58-12-25. Mandatory Control Level Event.**

41 (a) 'Mandatory Control Level Event' means any of the following events:

- 42 (1) The filing of a risk-based capital report that indicates that the insurer's
43 total adjusted capital is less than its mandatory control level risk-based
44 capital.

1 (2) Notification by the Commissioner to the insurer of an adjusted risk-
2 based capital report that indicates the event in subdivision (1) of this
3 subsection if the insurer does not challenge the adjusted risk-based
4 capital report under G.S. 58-12-30.

5 (3) If the insurer challenges an adjusted risk-based capital report that
6 indicates the event in subdivision (1) of this subsection under G.S. 58-
7 12-30, notification by the Commissioner to the insurer that the
8 Commissioner has rejected the challenge.

9 (b) In the event of a Mandatory Control Level Event, the Commissioner shall
10 take actions as are necessary to cause the insurer to be placed under regulatory control
11 under Article 30 of this Chapter. The Mandatory Control Level Event is sufficient
12 grounds for the Commissioner to take action under Article 30 of this Chapter, and the
13 Commissioner shall have the rights, powers, and duties with respect to the insurer as are
14 set forth in Article 30 of this Chapter. If the Commissioner takes actions pursuant to an
15 adjusted risk-based capital report, the insurer shall be entitled to such protections as are
16 afforded to insurers under the provisions of Article 30 of this Chapter pertaining to
17 summary proceedings. Notwithstanding any of the foregoing, the Commissioner may
18 forego action for up to 90 days after the Mandatory Control Level Event if the
19 Commissioner finds there is a reasonable expectation that the Mandatory Control Level
20 Event may be eliminated within the 90-day period.

21 **"§ 58-12-30. Hearings.**

22 Upon (i) notification to an insurer by the Commissioner of an adjusted risk-based
23 capital report; or (ii) notification to an insurer by the Commissioner that the insurer's
24 risk-based capital plan or revised risk-based capital plan is unsatisfactory, and the
25 notification constitutes a regulatory action level Event with respect to the insurer; or (iii)
26 notification to any insurer by the Commissioner that the insurer has failed to adhere to
27 its risk-based capital plan or revised risk-based capital plan and that the failure has a
28 substantial adverse effect on the ability of the insurer to eliminate the company action
29 level event with respect to the insurer in accordance with its risk-based capital plan or
30 revised risk-based capital plan; or (iv) notification to an insurer by the Commissioner of
31 a Corrective Order with respect to the insurer, the insurer has a right to a hearing, at
32 which the insurer may challenge any determination or action by the Commissioner. The
33 insurer shall notify the Commissioner of its request for a hearing within five days after
34 the notification by the Commissioner under this section. Upon receipt of the insurer's
35 request for a hearing, the Commissioner shall set a date for the hearing, which date shall
36 be no less than 10 days nor more than 30 days after the date of the insurer's request.

37 **"§ 58-12-35. Confidentiality and prohibition on announcements.**

38 (a) All risk-based capital reports, to the extent the information therein is not
39 required to be set forth in a publicly available annual statement schedule, and the risk-
40 based capital plans, including the results or report of any examination or analysis of an
41 insurer performed pursuant hereto and any Corrective Order issued by the
42 Commissioner pursuant to examination or analysis, with respect to any domestic insurer
43 or foreign insurer that are filed with the Commissioner constitute information that shall
44 be kept confidential by the Commissioner. This information shall not be made public or

1 be subject to subpoena, other than by the Commissioner, and then only for the purpose
2 of enforcement actions taken by the Commissioner under this Article or any other
3 provision of this Chapter.

4 (b) The General Assembly finds that the comparison of an insurer's total adjusted
5 capital to any of its risk-based capital levels is a regulatory tool that may indicate the
6 need for possible corrective action with respect to the insurer, and is not intended as a
7 means to rank insurers generally. Therefore, except as otherwise required under this
8 Article, the making, publishing, disseminating, circulating, or placing before the public,
9 or causing, directly or indirectly, to be made, published, disseminated, circulated, or
10 placed before the public, in a newspaper, magazine, or other publication, or in the form
11 of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or
12 in any other way, an advertisement, announcement, or statement containing an
13 assertion, representation, or statement with regard to the risk-based capital levels of any
14 insurer, or of any component derived in the calculation by any insurer, agent, broker, or
15 other person engaged in any manner in the insurance business is prohibited; provided,
16 however, that if any materially false statement with respect to the comparison regarding
17 an insurer's total adjusted capital to its risk-based capital levels (or any of them) or an
18 inappropriate comparison of any other amount to the insurers' risk-based capital levels
19 is published in any written publication and the insurer is able to demonstrate to the
20 Commissioner, with substantial proof, the falsity of the statement, or the
21 inappropriateness, as the case may be, then the insurer may publish an announcement in
22 a written publication if the sole purpose of the announcement is to rebut the materially
23 false statement.

24 **"§ 58-12-40. Supplemental provisions.**

25 The provisions of this Article are supplemental to any other provisions of the laws of
26 this State, and do not preclude or limit any other powers or duties of the Commissioner
27 under those laws, including Article 30 of this Chapter.

28 **"§ 58-12-45. Foreign insurers.**

29 (a) Any foreign insurer shall, upon written request of the Commissioner, submit
30 to the Commissioner a risk-based capital report as of the end of the calendar year just
31 ended the later of:

32 (1) The date a risk-based capital report would be required to be filed by a
33 domestic insurer under this Article; or

34 (2) Fifteen days after the request is received by the foreign insurer.

35 Any foreign insurer shall, at the written request of the Commissioner, promptly submit
36 to the Commissioner a copy of any risk-based capital plan that is filed with the
37 insurance regulator of any other state.

38 (b) In the event of a company action level event or regulatory action level Event
39 with respect to any foreign insurer as determined under the risk-based capital statute
40 applicable in the state of domicile of the insurer, or if no risk-based capital provision is
41 in force in that state under the provisions of this Article, if the insurance regulator of the
42 state of domicile of the foreign insurer fails to require the foreign insurer to file a risk-
43 based capital plan in the manner specified under the risk-based capital statute or, if no
44 risk-based capital provision is in force in that state, under G.S. 58-12-11, the

1 Commissioner may require the foreign insurer to file a risk-based capital plan with the
2 Commissioner. In that event the failure of the foreign insurer to file a risk-based capital
3 plan with the Commissioner is grounds to order the insurer to cease and desist from
4 writing new insurance business in this State.

5 (c) In the event of a Mandatory Control Level Event with respect to any foreign
6 insurer, if no domiciliary receiver has been appointed with respect to the foreign insurer
7 under the rehabilitation or liquidation statutes of the state or domicile of the foreign
8 insurer, the Commissioner may make application to the Superior Court of Wake County
9 as permitted under Article 30 of this Chapter with respect to the liquidation of property
10 of foreign insurers found in this State; and the occurrence of the Mandatory Control
11 Level Event is an adequate ground for the application.

12 **"§ 58-12-50. Notices.**

13 All notices by the Commissioner to an insurer that may result in regulatory action
14 under this Article are effective upon dispatch if transmitted by registered or certified
15 mail; or in the case of any other transmission are effective upon the insurer's receipt of
16 the notice.

17 **"§ 58-12-55. Phase-in provision.**

18 For risk-based capital reports required to be filed with respect to 1994, the following
19 requirements apply in lieu of the provisions of G.S. 58-12-11:

- 20 (1) In the event of a company action level event with respect to a domestic
21 insurer, the Commissioner shall take no regulatory action hereunder.
- 22 (2) In the event of a regulatory action level Event under G.S. 58-12-
23 16(a)(1), (2), or (3) the Commissioner shall take the actions required
24 under G.S. 58-12-11.
- 25 (3) In the event of a regulatory action level Event under G.S. 58-12-
26 16(a)(4), (5), (6), (7), (8), or (9) or an authorized control level event,
27 the Commissioner shall take the actions required under G.S. 58-12-16
28 with respect to the insurer.
- 29 (4) In the event of a Mandatory Control Level Event with respect to an
30 insurer, the Commissioner shall take the actions required under G.S.
31 58-12-21 with respect to the insurer."

32 Sec. 2. The heading of Article 12 of Chapter 58 of the General Statutes reads
33 as rewritten:

34 **"ARTICLE 12.**

35 **~~"GUARANTY FUND FOR DOMESTIC COMPANIES.~~**

36 **"RISK-BASED CAPITAL REQUIREMENTS."**

37 Sec. 3. G.S. 58-2-105 reads as rewritten:

38 **"§ 58-2-105. Confidentiality of medical records.**

39 All ~~privileged~~-patient medical records in the possession of the Department ~~shall be~~ are
40 confidential and ~~shall not be~~ are not public records pursuant to G.S. 58-2-100 or G.S.
41 132-1. As used in this section, 'patient medical records' includes personal information
42 that relates to an individual's physical or mental condition, medical history, or medical
43 treatment, and that has been obtained from the individual patient, a health care provider,
44 or from the patient's spouse, parent, or legal guardian."

1 Sec. 4. G.S. 58-3-75 reads as rewritten:

2 **"§ 58-3-75. Loss and loss expense reserves of fire and marine insurance companies.**

3 In any determination of the financial condition of any fire or marine or fire and
4 marine insurance company authorized to do business in this State, such company shall
5 be charged, in addition to its unearned premium liability as prescribed in ~~G.S. 58-3-70,~~
6 G.S. 58-3-71, with a liability for loss reserves in an amount equal to the aggregate of the
7 estimated amounts payable on all outstanding claims reported to it which arose out of
8 any contract of insurance or reinsurance made by it, and in addition thereto an amount
9 fairly estimated as necessary to provide for unreported losses incurred on or prior to the
10 date of such determination, as defined in G.S. 58-3-81(a), and including, both as to
11 reported and unreported claims, an amount estimated as necessary to provide for the
12 expense of adjusting such claims, and there shall be deducted, in determining such
13 liability for loss reserves, the amount of reinsurance recoverable by such company, in
14 respect to such claims, from assuming insurers in accordance with G.S. 58-7-21. Such
15 loss and loss expense reserves shall be calculated in accordance with any method
16 adopted or approved by the NAIC, unless the Commissioner determines that another
17 more conservative method is appropriate."

18 Sec. 5. G.S. 58-3-90 reads as rewritten:

19 **"§ 58-3-90. Revocation of license of foreign company; publication of notice.**

20 If the Commissioner is of the opinion, upon examination or other evidence, that a
21 foreign insurance company is in an unsound ~~condition, condition;~~ or, if a life insurance
22 company, that its actual funds, exclusive of its capital, are less than its liabilities; or that
23 ~~it the company~~ has failed to comply with the law, ~~or if it, its officers or agents, statutes,~~
24 rules, or orders applicable to it; or if the company, its officers, employees, agents, or
25 other representatives refuse to submit to examination or to perform any legal obligation
26 in relation thereto, to an examination, he shall revoke or suspend all ~~certificates of~~
27 authority granted to it licenses and authority to do business granted to the company or its
28 agents, and shall ~~cause notification thereof to be published in one or more newspapers~~
29 published give written notification of the revocation or suspension to all of the
30 company's agents in this State; and no new business may thereafter be done by it the
31 company or its agents in this State while such default or disability continues, or until its
32 until the company's license and authority to do business is restored by the
33 Commissioner."

34 Sec. 6. G.S. 58-3-172(a) reads as rewritten:

35 "(a) For all claims denied for ~~health~~ health care provider services under health
36 benefit plans, written notification of the denied claim shall be given to the insured and
37 to the health care provider submitting the claim if the health care provider would
38 otherwise be eligible for payment."

39 Sec. 7. Article 5 of Chapter 58 of the General Statutes is amended by adding
40 a new section to read:

41 **"§ 58-5-71. Liens of policyholders; subordination.**

42 Liens against the deposit of a foreign insurer under G.S. 58-5-70 shall be
43 subordinated to the reasonable and necessary expenses of the Commissioner in
44 liquidating the deposit and paying the special deposit claims."

1 Sec. 8. G.S. 58-7-21(b)(4)a. reads as rewritten:

2 "(4) a. Credit shall be allowed when the reinsurance is ceded to an
3 assuming insurer that maintains a trust fund in a qualified United
4 States financial institution, as defined in G.S. 58-7-26(b), for the
5 payment of the valid claims of its United States policyholders and
6 ceding insurers, their assigns and successors in interest. The assuming
7 insurer shall report annually to the Commissioner information
8 substantially the same as that required to be reported on the NAIC
9 Annual Statement form by licensed insurers to enable the
10 Commissioner to determine the sufficiency of the trust fund. In the
11 case of a single assuming insurer, the trust shall consist of a trustee
12 account representing the assuming insurer's liabilities attributable to
13 business written in the United States and, in addition, the assuming
14 insurer shall maintain a trustee surplus of not less than twenty million
15 dollars (\$20,000,000). In the case of a group of insurers, which
16 includes individual unincorporated underwriters, the trust shall consist
17 of a trustee account representing the group's liabilities attributable to
18 business written in the United States and, in addition, the group shall
19 maintain a trustee surplus of which one hundred million dollars
20 (\$100,000,000) shall be held jointly for the benefit of United States
21 ceding insurers of any member of the group; and the group shall make
22 available to the Commissioner an annual certification of the solvency
23 of each underwriter by the group's domiciliary regulator and its
24 independent certified public accountants."

25 Sec. 9. G.S. 58-7-31(b)(7)a. reads as rewritten:

26 "(7) a. The credit quality, reinvestment, or disintermediation risk is
27 significant for the business reinsured and the ceding company does not
28 (other than for the classes of business excepted in subdivision (7)b. of
29 this ~~section~~-section) either transfer the underlying assets to the reinsurer
30 or legally segregate such assets in a trust or escrow account or
31 otherwise establish a mechanism satisfactory to the Commissioner that
32 legally segregates, by contract or contractual provisions, the
33 underlying ~~assets~~-assets."

34 Sec. 10. The catch line of G.S. 58-7-150 reads as rewritten:

35 "**§ 58-7-150. Merger or consolidation. Consolidation.**"

36 Sec. 11. G.S. 58-7-163(6) reads as rewritten:

37 "(6) Bonds, notes, or other evidences of indebtedness that are secured by
38 mortgages or deeds of trust that are in default, to the extent of the cost
39 ~~of~~-or carrying value that is in excess of the value as determined
40 pursuant to other provisions of this Chapter."

41 Sec. 12. G.S. 58-7-170(c) reads as rewritten:

42 "(c) The cost of investments made by insurers in mortgage loans, authorized by
43 G.S. 58-7-179, with any one person shall not exceed the lesser of five percent (5%) of
44 the insurer's admitted assets or ten percent (10%) of the insurer's capital and surplus.

1 An insurer shall not invest in additional mortgage loans without the Commissioner's
2 consent if the admitted value of all mortgage loans held by the insurer exceeds an
3 aggregate of sixty percent (60%) of the admitted assets of the insurer, if (i) the admitted
4 value of all mortgage pass-through securities permitted by G.S. 58-7-173(17) does not
5 exceed twenty-five percent (25%) of the admitted assets of the insurer and (ii) the
6 admitted value of other mortgage loans permitted by G.S. 58-7-179 does not exceed
7 forty percent (40%) of the admitted assets of the insurer.

8 An insurer that, as of October 1, 1993, has mortgage investments that exceed the
9 aggregate limitation specified in this subsection shall submit to the Commissioner no
10 later than January 31, 1994, a plan to bring the amount of mortgage investments ~~with~~
11 ~~that person~~ into compliance with the limitations by January 1, 2001."

12 Sec. 13. G.S. 58-13-10 reads as rewritten:

13 **"§ 58-13-10. Scope.**

14 This Article applies to all domestic insurers and to all kinds of insurance written by
15 those insurers under Articles 1 through 66 of this Chapter. Foreign insurers are to
16 comply in substance with the requirements and limitations of this section. This Article
17 does not apply to variable contracts for which separate accounts are required to be
18 maintained nor to statutory deposits that are required to be maintained by insurance
19 ~~regulator~~ regulatory agencies as a requirement for doing business in such jurisdictions."

20 Sec. 14. G.S. 58-19-25(a) reads as rewritten:

21 "(a) Every insurer that is licensed to do business in this State and that is a member
22 of an insurance holding company system shall register with the Commissioner, except a
23 foreign insurer subject to the registration requirements and standards adopted by statute
24 or regulation in the jurisdiction of its domicile that are substantially similar to those
25 contained in this section and G.S. 58-19-30(a), 58-19-30(b), 58-19-30(c), and 58-19-
26 30(d), or a provision such as the following: Each registered insurer shall keep current
27 the information required to be disclosed in its registration statement by reporting all
28 material changes or additions within 15 days after the end of the month in which it
29 learns of each change or addition. The insurer shall also file a copy of its registration
30 statement and any amendments to the statement in each state in which that insurer is
31 authorized to do business if requested by the insurance regulator of that state. Any
32 insurer that is subject to registration under this section shall register within 30 days after
33 it becomes subject to registration, and an amendment to the registration statement shall
34 be filed by March 1 of each year for the previous calendar year; unless the
35 Commissioner for good cause shown extends the time for registration or filing, and then
36 within the extended time. All registration statements shall contain a summary, on a
37 form prescribed by the Commissioner, outlining all items in the current registration
38 statement representing changes from the prior registration statement. The
39 Commissioner may require any insurer that is a member of a holding company system
40 that is not subject to registration under this section to furnish a copy of the registration
41 statement or other information filed by the insurance company with the insurance
42 regulator of its domiciliary jurisdiction."

43 Sec. 15. G.S. 58-21-20(a)(2)b. reads as rewritten:

1 "b. In the case of any Lloyd's plans or other similar unincorporated
2 group of insurers, which includes individual insurers, maintains
3 a trust fund of not less than fifty million dollars (\$50,000,000)
4 as security to the full amount thereof for all policyholders and
5 creditors in the United States of each member of the group, and
6 the trust shall likewise comply with the terms and conditions
7 established in subdivision (2)a. of this section for alien insurers;
8 and".

9 Sec. 16. G.S. 58-21-35 reads as rewritten:

10 **"§ 58-21-35. Duty to file evidence of insurance and affidavits.**

11 Within 30 days after the placing of any surplus lines insurance, the surplus lines
12 licensee shall execute and file with the Commissioner:

13 (1) A written report regarding the insurance and including the following
14 information:

- 15 a. The name and address of the insured;
16 b. The identity of the insurer or insurers;
17 c. A description of the subject and location of the risk;
18 d. The amount of premium charged for the insurance; and
19 e. Such other pertinent information as the Commissioner may
20 reasonably require; and

21 (2) An affidavit as to the efforts to place the coverage with admitted
22 insurers and the results thereof in accordance with G.S. 58-21-15. The
23 report and affidavit required by this section and the quarterly report
24 required by G.S. 58-21-80 shall be completed on a standardized form
25 or forms prescribed by the ~~Commissioner~~ Commissioner and are not
26 public records under G.S. 132-1 or G.S. 58-2-100."

27 Sec. 17. G.S. 58-30-275(b) reads as rewritten:

28 "(b) The Court may issue an order appointing an ancillary receiver in whatever
29 terms it deems to be ~~appropriate~~ appropriate, including provisions for payment of the
30 reasonable and necessary expenses of the proceedings. The filing or recording of the
31 order with a register of deeds in this State imparts the same notice as a deed, bill of sale,
32 or other evidence of title duly filed or recorded with that register of deeds."

33 Sec. 18. G.S. 58-33-130(f) is repealed.

34 Sec. 19. G.S. 58-34-2(d)(9) reads as rewritten:

35 "(9) If the contract provides for a sharing of interim profits by the MGA,
36 and the MGA has the authority to determine the amount of the interim
37 profits by establishing loss reserves, controlling claim payments, or by
38 any other manner, interim profits will not be paid to the MGA until
39 one year after they are earned for property insurance business and five
40 years after they are earned on casualty business and not until the
41 profits have been verified under subsection ~~(m)~~ (f) of this section."

42 Sec. 20. Article 35 of Chapter 58 of the General Statutes is amended by
43 adding a new section to read:

44 **"§ 58-35-100. Fees are nonrefundable.**

1 All fees that are imposed and collected under this Article are nonrefundable."

2 Sec. 21. G.S. 58-40-140(a) reads as rewritten:

3 "(a) Any policy for commercial general liability coverage or professional liability
4 insurance wherein the insurer offers, and the insured elects to purchase, an extended
5 reporting period for claims arising during the expiring policy period must provide:

6 (1) That in the event of a cancellation permitted by G.S. 58-41-15 or
7 nonrenewal effective under G.S. 58-41-20, there shall be a 30-day
8 period ~~before~~after the effective date of the cancellation or nonrenewal
9 during which the insured may elect to purchase coverage for the
10 extended reporting period.

11 (2) That the limit of liability in the policy aggregate for the extended
12 reporting period shall be one hundred percent (100%) of the expiring
13 policy aggregate.

14 (3) Within 45 days after the mailing or delivery of the written request of
15 the insured, the insurer shall mail or deliver the following loss
16 information covering a three-year period:

17 a. Aggregate information on total closed claims, including date
18 and description of occurrence, and any paid losses;

19 b. Aggregate information on total open claims, including date and
20 description of occurrence, and amounts of any payments;

21 c. Information on notice of any occurrence, including date and
22 description of occurrence."

23 Sec. 22. G.S. 58-41-10(a) reads as rewritten:

24 "(a) Except as otherwise provided, this Article applies to all kinds of insurance
25 authorized by G.S. 58-7-15(4) through (14) and G.S. 58-7-15(18) through (22), and to
26 all insurance companies licensed by the Commissioner to write those kinds of
27 insurance. This Article does not apply to insurance written under Articles 21, 36, 37, 45
28 or 46 of this Chapter; ~~insurance written under G.S. 58-7-15(7),(13), or (14) when burglary~~
29 ~~and theft insurance or personal injury or property damage insurance is written for residential~~
30 risks in conjunction with insurance written under Article 36 of this Chapter; to marine
31 insurance as defined in G.S. 58-40-15(3); to personal inland marine insurance; to
32 aviation insurance; to policies issued in this State covering risks with multistate
33 locations, except with respect to coverages applicable to locations within this State; to
34 any town or county farmers mutual fire insurance association restricting its operations to
35 not more than six adjacent counties in this State; nor to domestic insurance companies,
36 associations, orders, or fraternal benefit societies doing business in this State on the
37 assessment plan."

38 Sec. 23. G.S. 58-48-95 reads as rewritten:

39 **"§ 58-48-95. Use of deposits made by insolvent insurer.**

40 (a) Notwithstanding any other provision of ~~Articles 1 through 64~~ of this Chapter
41 pertaining to the use of deposits made by insurance companies for the protection of
42 policyholders, ~~the Commissioner shall deliver to the Association, and the Association is~~
43 ~~hereby authorized to~~ shall receive, upon its request, from the Commissioner and may
44 expend, any deposit or deposits ~~previously or hereinafter~~ made, whether or not required

1 by statute, by an insolvent insurer to the extent those deposits are needed by the
2 Association first to pay the covered claims as required by this Article and then to the
3 extent those deposits are needed to pay all expenses of the Association relating to the
4 insurer: Provided that ~~before delivering any deposit to the Association~~ the Commissioner
5 may retain and use an amount of the deposit up to five thousand dollars (\$5,000) ten
6 thousand dollars (\$10,000) to defray administrative costs to be incurred by the
7 Commissioner in carrying out his powers and duties with respect to the insolvent
8 insurer, notwithstanding G.S. 58-5-70. ~~As used in this section, the term 'administrative~~
9 ~~costs' does not include any salary or expenses paid to or on behalf of any State employee or to~~
10 ~~any person appointed or employed pursuant to G.S. 58-30-60(c), 58-30-75, or 58-30-120.~~

11 (b) ~~However, in~~ In, however the case of a deposit made by an insolvent domestic
12 insurer, the Association shall receive, upon its request, from the Commissioner, the
13 portions of the deposit made for the protection of policyholders having covered claims
14 shall be delivered by the Commissioner to the Association. ~~claims.~~ As for the general
15 deposit, ~~said those~~ portions shall be in the proportions that the insolvent domestic
16 insurer's domestic net direct written premiums for the preceding calendar year on the
17 kinds of insurance in the account bears to its total net direct written premiums for the
18 preceding calendar year on the kinds of insurance in the account.

19 (c) The Association shall account to the Commissioner and the insolvent insurer
20 for all deposits received from the Commissioner ~~hereunder~~ under this section, and shall
21 repay to the Commissioner a portion of the deposits ~~received~~ received, which shall be
22 equal to the total amount of the claims against the insolvent insurer that are not covered
23 claims under this Article solely by reason that the amount of the claim is fifty dollars
24 (\$50.00) or less. ~~Said This~~ repayment shall in no way does not prejudice the rights of the
25 Association with regard to the portion of the deposit repaid to the Commissioner. After
26 ~~all of the~~ deposits of the insolvent insurer received by the Association under this section
27 have been expended by the Association for the purposes set out in this section, the
28 member insurers shall be assessed as provided by this Article to pay any remaining
29 liabilities of the Association arising under this Article."

30 Sec. 24. G.S. 58-50-130(a)(4a) reads as rewritten:

31 "(4a) A carrier may continue to enforce reasonable employer participation
32 and contribution requirements on small employers applying for
33 coverage; however, participation and contribution requirements may
34 vary among small employers only by the size of the small employer
35 group and shall not differ because of the health benefit plan involved.
36 In applying minimum participation requirements to a small employer,
37 a small employer carrier shall not consider employees or dependents
38 who have qualifying existing coverage in determining whether an
39 applicable participation level is met. 'Qualifying existing coverage'
40 means benefits or coverage provided under: (i) Medicare, Medicaid,
41 and other government funded programs; or (ii) an employer-based
42 health insurance or health benefit arrangement, including a self-insured
43 plan, that provides benefits similar to or in excess of benefits provided
44 under the basic health care plan. An accountable health carrier shall

1 not enforce participation or contribution requirements on member
 2 small employers, as defined in G.S. 143-622(18), unless those
 3 requirements meet with the standards adopted by the ~~North Carolina~~
 4 ~~Health-State Health Plan~~ Purchasing Alliance Board."

5 Sec. 25. G.S. 58-50-130(a)(5) reads as rewritten:

6 "(5) Notwithstanding any other provision of this Chapter, no small
 7 employer carrier, insurer, subsidiary or an insurer, or controlled
 8 individual of ~~a~~an insurance holding company shall act as an
 9 administrator or claims paying agent, as opposed to an insurer, on
 10 behalf of small groups which, if they purchased insurance, would be
 11 subject to this section. No small employer carrier, insurer, subsidiary
 12 of an insurer, or controlled individual of ~~a~~an insurance holding
 13 company shall provide stop loss, catastrophic, or reinsurance coverage
 14 to small groups which, if they ~~were purchased,~~ purchased insurance,
 15 would be subject to this section."

16 Sec. 26. Article 62 of Chapter 58 of the General Statutes is amended by
 17 adding a new section to read:

18 **"§ 58-62-77. Actions not precluded.**

19 Nothing in this Article precludes any resident from bringing any action against the
 20 Association in any court of competent jurisdiction with respect to any contractual
 21 obligation arising under covered policies."

22 Sec. 27. G.S. 58-62-92 is repealed.

23 Sec. 28. G.S. 58-62-95 reads as rewritten:

24 **"§ 58-62-95. Use of deposits made by impaired insurer.**

25 Notwithstanding any other provision of ~~Articles 1 through 64 of this~~ Chapter
 26 pertaining to the use of deposits made by insurance companies for the protection of
 27 policyholders, ~~the Commissioner shall deliver to the Association, and the Association is~~
 28 ~~hereby authorized to~~ shall receive, upon its request, from the Commissioner and may
 29 expend, any deposit or deposits previously or hereinafter made, whether or not made
 30 pursuant to statute, by an insurer determined to be impaired under this Article to the
 31 extent those deposits are needed by the Association to pay contractual obligations of
 32 that impaired insurer owed under covered policies as required by this Article, and to the
 33 extent those deposits are needed to pay all expenses of the Association relating to the
 34 impaired insurer: Provided that before delivering any deposit to the Association the
 35 Commissioner may retain and use an amount of the deposit up to ~~five thousand dollars~~
 36 ~~(\$5,000) ten thousand dollars (\$10,000) to defray administrative costs to be incurred by~~
 37 the Commissioner in carrying out his powers and duties with respect to the insolvent
 38 insurer, notwithstanding G.S. 58-5-70. As used in this section, the term "administrative
 39 costs" does not include any salary or expenses paid to or on behalf of any State employee or to
 40 any person appointed or employed pursuant to G.S. 58-30-60(e), 58-30-75, or 58-30-120. The
 41 Association shall account to the Commissioner and the impaired insurer for all deposits
 42 received from the Commissioner hereunder. under this section. After all of the deposits
 43 of the impaired insurer received by the Association under this section have been
 44 expended by the Association for the purposes set out in this section, the member

1 insurers shall be assessed as provided by this Article to pay any remaining liabilities of
2 the Association arising under this Article."

3 Sec. 29. G.S. 58-64-33(a) reads as rewritten:

4 "(a) All continuing care facilities shall maintain after opening: operating reserves
5 equal to fifty percent (50%) of the total operating costs projected for the 12-month
6 period following the period covered by the most recent annual statement filed with the
7 Department. The forecast statements as required by G.S. 58-64-20(a)(12) shall serve as
8 the basis for computing the operating reserve. In addition to total operating expenses,
9 total operating costs will include debt service, consisting of principal and interest
10 payments along with taxes and insurance on any mortgage loan or other long-term
11 financing, but will exclude depreciation, amortized expenses, and extraordinary items as
12 approved by the Commissioner. If the debt service portion is accounted for by way of
13 another reserve account, the debt service portion may be excluded. Facilities that
14 maintain an occupancy level in excess of ninety percent (90%) shall only be required to
15 maintain twenty-five percent (25%) operating reserve upon approval of the
16 Commissioner, unless otherwise instructed by the Commissioner. The operating
17 reserves may be funded by cash, invested cash, ~~commercial paper~~, or by investment grade
18 securities, including bonds, stocks, U.S. Treasury obligations, or obligations of U.S.
19 government agencies."

20 Sec. 30. G.S. 58-69-40 reads as rewritten:

21 "**§ 58-69-40. Disposition of fees.**

22 ~~In the event an application for license filed hereunder is not approved, the~~
23 ~~Commissioner shall retain ten dollars (\$10.00) of the fee paid in connection with the~~
24 ~~application and return the balance to the applicant.~~ All fees collected by the
25 Commissioner under this Article shall be credited to the Department of Insurance Fund
26 created under G.S. 58-6-25."

27 Sec. 31. G.S. 58-70-65(a) reads as rewritten:

28 "(a) Each permit holder shall deposit, no later than two banking days ~~from~~ after
29 receipt, in a separate trust account in any bank located in ~~a~~ North Carolina or ~~other~~ in
30 any other bank approved by the Commissioner, sufficient funds to pay all moneys due
31 or ~~owing~~ owed to all collection creditors or forwarders. ~~Said~~ The funds shall remain in
32 the trust account until remitted to the creditor or forwarder, and shall not be
33 commingled with any other operating funds. The trust account shall be used only for
34 the purpose of:

- 35 (1) Remitting to collection creditors or forwarders the proceeds to which
36 they are entitled.
- 37 (2) Remitting to the collection agency the commission that is due the
38 collection agency.
- 39 (3) Reimbursing consumers for overpayments.
- 40 (4) Making adjustments to the trust account balance for bank service
41 charges."

42 Sec. 32. G.S. 58-71-71 reads as rewritten:

43 "**§ 58-71-71. Examination; educational requirements; penalties.**

1 (a) In order to be eligible to take the examination required to be licensed as a
2 runner or bail bondsman under G.S. 58-71-70, each person shall complete at least 20
3 hours of education in subjects pertinent to the duties and responsibilities of a runner or
4 bail bondsman, including all laws and regulations related to being a runner or bail
5 bondsman.

6 (b) Each year every licensee shall complete at least 10 hours of continuing
7 education in subjects related to the duties and responsibilities of a runner or bail
8 bondsman before renewal of the license. This continuing education shall not include a
9 written or oral examination. A person who receives his first license on or after January 1
10 of any year does not have to comply with this subsection until the period between his
11 first and second license renewals.

12 (c) Any person licensed as a runner or bail bondsman before January 1, 1994, is
13 not subject to the prelicensing education requirement of this section, but is subject to the
14 continuing education requirement of this section. A licensed runner or bail bondsman
15 who is 65 years of age or older and who has been licensed as a runner or bail bondsman
16 for 15 years or more is exempt from both the prelicensing education and continuing
17 education requirements of this section.

18 (d) ~~The North Carolina Bail Agents Association shall provide education for bail~~
19 ~~bondsman licensure as required by this section.~~ The Commissioner shall approve the
20 educational courses offered under this section and ensure that ~~the education meets the~~
21 ~~general standards for education otherwise established by the Commissioner.~~ they
22 enhance the professional competence and professional responsibility of bail bondsmen
23 and runners. No person shall offer, sponsor, or conduct any course under the auspices
24 of this section unless the Commissioner has authorized that person to do so.

25 (e) Any person who falsely represents to the Commissioner that the requirements
26 of this section have been met is subject, after notice and opportunity for hearing, to G.S.
27 58-2-70.

28 (f) The Commissioner may adopt rules for the effective administration of this
29 section."

30 Sec. 33. G.S. 58-85-1 reads as rewritten:

31 "**§ 58-85-1. Application of fund.**

32 The money paid into the hands of the treasurer of the North Carolina State Firemen's
33 Association shall be known and remain as the 'Firemen's Relief Fund' of North Carolina,
34 and shall be used as a fund for the relief of firemen, members of such Association, who
35 may be injured or rendered sick by disease contracted in the actual discharge of duty as
36 firemen, and for the relief of widows, children, and if there be no widow or children,
37 then dependent mothers of such firemen killed or dying from disease so contracted in
38 such discharge of duty; to be paid in such manner and in such sums to such individuals
39 of the classes herein named and described as may be provided for and determined upon
40 in accordance with the constitution and bylaws of said Association, and such provisions
41 and determinations made pursuant to said constitution and bylaws shall be final and
42 conclusive as to the persons entitled to benefits and as to the amount of benefit to be
43 received, and no action at law shall be maintained against said Association to enforce
44 any claim or recover any benefit under this Article or under the constitution and bylaws

1 of said Association; but if any officer or committee of said Association omit or refuse to
2 perform any duty imposed upon him or them, nothing herein contained shall be
3 construed to prevent any proceedings against said officer or committee to compel him
4 or them to perform such duty. No fireman shall be entitled to receive any benefits under
5 this section until the firemen's relief fund of his city or town shall have been exhausted.
6 Notwithstanding the above provisions, the Executive Board of the North Carolina State
7 Firemen's Association is hereby authorized to grant educational scholarships to
8 members and the children of members, to subsidize premium payments of members
9 over 65 years of age to the Firemen's Fraternal Insurance Fund of the North Carolina
10 State Firemen's Association, and to provide accidental death and dismemberment
11 insurance for members of those fire departments not eligible for benefits pursuant to
12 standards of certification adopted by the State Firemen's Association for the use of local
13 relief funds."

14 Sec. 34. G.S. 143-143.14(b) reads as rewritten:

15 "(b) Within 30 days after receipt of a notification that an application for a license
16 has been denied, the applicant may make a written ~~demand upon the Board~~ request for a
17 review by a member of the Department staff designated by the chairman of the Board to
18 determine the reasonableness of the Board's action. The review shall be completed
19 without undue delay, and the ~~Board applicant~~ shall be notified promptly in writing as to
20 the outcome of the review. Within 30 days after service of the notification as to the
21 outcome, the ~~Board applicant~~ may make a written ~~demand upon the Commissioner~~ request
22 for a hearing under Article 3A of Chapter 150B of the General Statutes if the ~~Board~~
23 applicant disagrees with the outcome."

24 Sec. 35. G.S. 143-151.15 reads as rewritten:

25 **"§ 143-151.15. Return of certificate to Board; reissuance by Board.**

26 A certificate issued by the Board ~~pursuant to under~~ this Article ~~shall remain valid only~~
27 ~~so is valid~~ as long as the person certified is employed by the State of North Carolina or
28 any political subdivision thereof as a Code-enforcement official. When the person
29 certified leaves ~~such that~~ employment for any reason, he shall return the certificate to the
30 Board. If the person subsequently obtains employment as a Code-enforcement official
31 in any governmental jurisdiction described above, the Board ~~shall~~ may reissue the
32 certificate to him. The provisions of G.S. 143-151.16(b) relating to renewal fees
33 and late renewals shall apply, if appropriate. The provisions of G.S. 143-151.16(c) shall
34 not apply. ~~The provisions of this section shall not affect the Board's power to suspend or~~
35 ~~revoke any certificate pursuant to~~ This section does not affect the Board's powers under
36 G.S. 143-151.17."

37 Sec. 36. G.S. 143-151.17(d) reads as rewritten:

38 "(d) The Board may deny an application for a certificate for any of the grounds ~~for~~
39 ~~suspension, revocation, or refusal to grant~~ that are described in subsection (a) of this
40 section. Within 30 days after receipt of a notification that an application for a certificate
41 has been denied, the applicant may make a written ~~demand upon the Board~~ request for a
42 review by a ~~member of the Department staff~~ committee designated by the chairman of the
43 Board to determine the reasonableness of the Board's action. The review shall be
44 completed without undue delay, and the ~~Board applicant~~ shall be notified promptly in

1 writing as to the outcome of the review. Within 30 days after service of the notification
2 as to the outcome, the ~~Board~~applicant may make a written ~~demand upon the~~
3 ~~Commissioner request~~ for a hearing under Article 3A of Chapter 150B of the General
4 Statutes if the ~~Board~~applicant disagrees with the outcome."

5 Sec. 37. Sections 1, 2, and 25 of this act become effective January 1, 1995.
6 Section 24 of this act becomes effective January 2, 1995. Sections 17, 23, 26, 27, and
7 28 of this act apply to delinquency proceedings pending on the effective date of this act.
8 The remainder of this act is effective upon ratification.