

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**HOUSE BILL 747**

Short Title: Ins. Commr./Approval of Med Mal Rates.

(Public)

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Sponsors: Representative Faison.

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Referred to: Insurance.

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March 15, 2007

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO  
2 CONSIDER CERTAIN CIRCUMSTANCES WHEN REVIEWING PROPOSED  
3 RATES SUBMITTED BY MEDICAL MALPRACTICE INSURERS FOR  
4 MALPRACTICE INSURANCE COVERAGE.  
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6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 58-40-25 reads as rewritten:

8 "**§ 58-40-25. Rating methods.**

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

11 (1) Due consideration shall be given to past and prospective loss and  
12 expense experience within this State, to catastrophe hazards, to a  
13 reasonable margin for underwriting profit and contingencies, to trends  
14 within this State, to dividends or savings to be allowed or returned by  
15 insurers to their policyholders, members, or subscribers, and to all  
16 other relevant factors, including judgment factors; however, regional  
17 or countrywide expense or loss experience and other regional or  
18 countrywide data may be considered only when credible North  
19 Carolina expense or loss experience or other data is not available.

20 (2) ~~Risks~~ Except as authorized under subdivision (2a) of this section, risks  
21 may be grouped by classifications for the establishment of rates and  
22 minimum premiums. Classification rates may be modified to produce  
23 rates for individual risks in accordance with rating plans which  
24 establish standards for measuring variations in hazards or expense  
25 provisions, or both. Those standards may measure any differences  
26 among risks that have probable effect upon losses or expenses.  
27 Classifications or modifications of classifications of risks may be  
28 established based upon size, expense, management, individual  
29 experience, location or dispersion of hazard, or any other reasonable

1 considerations. Those classifications and modifications shall apply to  
2 all risks under the same or substantially the same circumstances or  
3 conditions.

4 (2a) The impact of medical malpractice insurance rates on the cost and  
5 availability of malpractice insurance for certain classes of health care  
6 providers. In reviewing rates proposed by a medical malpractice  
7 insurer, the Commissioner may require that the risks related to all  
8 medical malpractice claims shall be spread among all classes of health  
9 care providers regardless of the claims experience for a given class of  
10 health care provider.

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

14 (4) In the case of property insurance rates under this Article, consideration  
15 shall be given to the insurance public protection classifications of fire  
16 districts established by the Commissioner. The Commissioner shall  
17 establish and modify from time to time insurance public protection  
18 districts for all rural areas of the State and for cities with populations  
19 of 100,000 or fewer, according to the most recent annual population  
20 estimates certified by the State Budget Officer. In establishing and  
21 modifying these districts, the Commissioner shall use standards at least  
22 equivalent to those used by the Insurance Services Office, Inc., or any  
23 successor organization. The standards developed by the Commissioner  
24 are subject to Article 2A of Chapter 150B of the General Statutes. The  
25 insurance public protection classifications established by the  
26 Commissioner issued pursuant to the provisions of this Article shall be  
27 subject to appeal as provided in G.S. 58-2-75, et seq. The exceptions  
28 stated in G.S. 58-2-75(a) do not apply."

29 **SECTION 2.** This act is effective when it becomes law and applies to rates  
30 filed for approval by the Commissioner of Insurance on and after that date.