

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

**SESSION LAW 2015-281  
HOUSE BILL 361**

AN ACT TO PROVIDE FOR PRINCIPLE-BASED VALUATION IN THE LIFE INSURANCE STANDARD VALUATION LAW AND STANDARD NONFORFEITURE PROVISIONS IN THE NORTH CAROLINA INSURANCE LAW; TO MAKE CONFORMING AND CLARIFYING CHANGES TO THE LAWS GOVERNING PROFESSIONAL EMPLOYER ORGANIZATIONS, INSURANCE COMPANY DEPOSITS, CONTINUING CARE RETIREMENT COMMUNITIES, HEALTH INSURANCE EXTERNAL REVIEW, AND INSURANCE COMPANY NAMES; TO REVISE INSURANCE POLICY RENEWAL PROVISIONS; TO AMEND THE DEFINITION OF SMALL EMPLOYER; AND TO MAKE TECHNICAL CORRECTIONS.

The General Assembly of North Carolina enacts:

**PART I. REVISIONS TO NORTH CAROLINA'S STANDARD VALUATION AND NONFORFEITURE LAWS**

**SECTION 1.** G.S. 58-58-50 reads as rewritten:

**"§ 58-58-50. Standard Valuation Law.**

(a) This section shall be known as the Standard Valuation Law.

(a1) As used in this section:

- (1) Appointed actuary. – A qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection (j1) of this section.
- (2) Company. – An entity which has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, annuity contracts, pure endowment contracts, or deposit-type contracts (i) in this State and has at least one such policy in force or on claim or (ii) in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, annuity contract, pure endowment, or deposit-type contracts in this State.
- (3) Deposit-type contract. – A contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual.
- (4) Policyholder behavior. – Any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section, including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.
- (5) Principle-based valuation. – A reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection (n) of this section as specified in the valuation manual.
- (6) Qualified actuary. – An individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.
- (7) Reserves. – Reserve liabilities.



- (8) Tail risk. – A risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.
- (9) Valuation manual. – The manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

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

(b1) The provisions set forth in subsections (c), (d), (d1), (e), (f), (g), (h), and (k) of this section shall apply to all policies and contracts, as appropriate, subject to this section issued on or after the effective date of this section and prior to the operative date of the valuation manual. The provisions set forth in subsections (m) and (n) of this section shall not apply to policies issued prior to the operative date of the valuation manual.

(b2) This subsection applies to policies and contracts issued on or after the operative date of the valuation manual. The Commissioner shall annually value, or cause to be valued, the reserves for all outstanding life insurance contracts, annuity contracts, pure endowment contracts, accident and health insurance contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the Commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when that valuation complies with the minimum standard provided in this section.

(b3) The provisions set forth in subsections (m) and (n) of this section shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

(c) (1) Except as otherwise provided in subdivisions (3) and (4) of this subsection, or in subsection (k) of this section, the minimum standard for the valuation of all such policies and contracts issued before the effective date of this section shall be that provided by the laws in effect immediately before that date, except that the minimum standard for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts issued before that date shall be that provided by the laws in effect immediately before that date but replacing the interest rates specified in such laws by an interest rate of five percent (5%) per annum, and five and one-half percent (5 ½%) interest for single premium life insurance policies.

(2) Except as otherwise provided in subdivisions (3) and (4) of this subsection, or in subsection (k) of this section, the minimum standards for the valuation of all such policies and contracts issued on or after the effective date of this section shall be the Commissioner's reserve valuation methods defined in subsections (d), ~~(d-1)(d1)~~, and (g), and (k) of this section, five percent (5%) interest for group annuity and pure endowment contracts and three and one-half percent (3 ½%) interest for all other policies and contracts, or, in the case of policies and contracts other than annuity and pure endowment

contracts, issued on or after July 1, 1975, four percent (4%) interest for such policies issued prior to April 19, 1979, and four and one-half percent (4 ½%) interest for such policies issued on or after April 19, 1979, and the following tables:

- ...
- (3) Except as provided in subdivision (4) of this subsection, the minimum standard for the valuation of ~~all~~ individual annuity and pure endowment contracts issued on or after the operative date of this subdivision (3), as defined herein, and for ~~all~~ annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioner's reserve valuation methods defined in subsections (d) and ~~(d-1)~~(d1) of this section and the following tables and interest rates:

...

After July 1, 1975, any company may file with the Commissioner a written notice of its election to comply with the provisions of this subdivision (3) after a specified date before January 1, 1979, which shall be the operative date of this subdivision for such company, provided, a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1979.

- (4) a. Applicability of ~~This Subdivision~~this subdivision. The interest rates used in determining the minimum standard for the valuation of:
1. ~~All life~~Life insurance policies issued in a particular calendar year, on or after the operative date of subdivision (e)(4) of G.S. 58-58-55,
  2. ~~All individual~~Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982,
  3. ~~All annuities~~Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts, and
  4. The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts
- shall be the calendar year statutory valuation interest rates as defined in this subdivision.

...

(d) Except as otherwise provided in subsections ~~(d-1) and~~(d1), (g), and (k) of this section reserves according to the Commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (1) and (2), as follows:

- (1) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.
- (2) A net one year term premium for such benefits provided for in the first policy year.

Provided that for any life insurance policy issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefits are provided in the first year for such excess and which provides an endowment benefit or a cash surrender value of a combination thereof in an amount greater than such excess premium, the reserve according to the Commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (g), be the greater of the reserve as of such policy anniversary calculated as described in the first paragraph of this subsection and the reserve as of such policy anniversary calculated as described in that paragraph, but with (i) the value defined in subparagraph (1) of that paragraph being reduced by fifteen percent (15%) of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subdivisions (2) and (4) of subsection (c) shall be used.

Reserves according to the Commissioner's reserve valuation method for: (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended; (iii) disability and accidental death benefits in all policies and contracts; and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subsection except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

~~(d-1)~~(d1) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the Commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(e) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of this section, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (d), ~~(d-1)~~, (d1), (g) and (h) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies. In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified-appointed actuary to be necessary to render the opinion required by subsection (i) or subsection (j1) of this section.

(f) Reserves for all policies and contracts issued before the effective date of this section may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for those policies and contracts than the minimum reserves required by the laws in effect immediately before that date.

Reserves for any category of policies, contracts or benefits as established by the Commissioner, issued on or after the effective date of this section may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ~~higher~~ greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided ~~for therein in the policies or contracts.~~

Any such company that adopts any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum ~~herein provided~~ provided in this section. Provided, however, that for the purposes of this section, the holding of additional reserves previously determined by a ~~qualified~~ the appointed actuary to be necessary to render the opinion required by subsection ~~(e)(i) or (j1)~~ of this section shall not be deemed to be the adoption of a higher standard of valuation.

(g) If in any contract year the gross premium charged by any ~~life insurance~~ company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subdivisions (1), (2) and (4) of subsection (c).

Provided that for any life insurance policy issued on or after January 1, 1985, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection ~~(g)~~ shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (d), ignoring the second paragraph of subsection (d). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (d), including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this ~~subsection (g)~~ subsection.

(h) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (d), ~~(d-1), (d1)~~ and (g), the reserves which are held under any such plan must:

- (1) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and
- (2) Be computed by a method which is consistent with the principles of this Standard Valuation Law, as determined by regulations promulgated by the Commissioner.

(i) ~~Every~~ Prior to the operative date of the valuation manual as specified in G.S. 58-58-51, every life insurance company doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with previously reported amounts, and comply with applicable laws of this State. The Commissioner by rule shall define the specifics of this opinion and add any other items deemed to be necessary to its scope. Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by this subsection, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations

anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts. The Commissioner may provide by rule for a transition period for establishing any higher reserves that the qualified actuary may deem to be necessary in order to render the opinion required by this subsection.

(j) Each opinion required by subsection (i) of this section shall be governed by the following provisions:

...  
(7) ~~For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirement set forth in such rules.~~

...  
(j1) On or after the operative date of the valuation manual, every company with outstanding life insurance contracts, annuity contracts, pure endowment contracts, accident and health insurance contracts, or deposit-type contracts in this State and subject to regulation by the Commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with previously reported amounts, and comply with applicable laws of this State. The valuation manual shall prescribe the specifics of this opinion, including any items deemed to be necessary to its scope. Every company with outstanding life insurance contracts, annuity contracts, pure endowment contracts, accident and health insurance contracts, or deposit-type contracts in this State and subject to regulation by the Commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by this subsection an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(j2) Each opinion required by subsection (j1) of this section shall be governed by the following provisions:

- (1) A memorandum, in form and substance as specified in the valuation manual and acceptable to the Commissioner, shall be prepared to support each actuarial opinion.
- (2) If the company fails to provide a supporting memorandum at the request of the Commissioner within a period specified in the valuation manual, or the Commissioner determines that the supporting memorandum provided by the company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the Commissioner.
- (3) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the Commissioner.
- (4) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.
- (5) The opinion shall apply to all policies and contracts subject to subsection (j1) of this section plus other actuarial liabilities as specified in the valuation manual.
- (6) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor and on such additional standards as may be prescribed in the valuation manual.
- (7) In the case of an opinion required to be submitted by a foreign or alien company, the Commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the Commissioner

determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(8) Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person (other than the company and the Commissioner) for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion.

(9) Disciplinary action by the Commissioner against the company or the appointed actuary shall be defined in rules by the Commissioner.

(k) The Commissioner shall adopt rules containing the minimum standards applicable to the valuation of accident and health plans-insurance contracts issued prior to the operative date of the valuation manual. The Commissioner may also adopt rules for the purpose of recognizing new annuity mortality tables for use in determining reserve liabilities for annuities and may adopt rules that govern minimum valuation standards for reserves of life insurance companies. In adopting these rules, the Commissioner may consider model laws and regulations promulgated and amended from time to time by the NAIC.

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

(1) Reserves for contracts issued by insurers.

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

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

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

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

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

(m) The valuation manual shall apply as described in this subsection.

(1) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsections (b2) and (b3) of this section, except as provided under subdivision (5) or (7) of this subsection.

(2) The operative date of the valuation manual is specified in G.S. 58-58-51(b).

(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 of the year following the date when the change to the valuation manual has been adopted by the NAIC by an affirmative vote representing each of the following:

a. At least three-fourths of the members of the NAIC voting but not less than a majority of the total membership.

b. Members of the NAIC representing jurisdictions totaling more than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements most recently available prior to the vote described in this subdivision: life, accident and health annual statements; health annual statements; and fraternal annual statements.

(4) The valuation manual must specify all of the following:

a. Minimum valuation standards for and definitions of the policies or contracts subject to subsections (b2) and (b3) of this section. Such minimum valuation standards shall be as follows:

1. The Commissioner's reserve valuation method for life insurance contracts subject to subsections (b2) and (b3) of this section.

2. The Commissioner's annuity reserve valuation method for annuity contracts subject to subsections (b2) and (b3) of this section.

3. Minimum reserves for all other policies or contracts subject to subsections (b2) and (b3) of this section.

- b. The policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation as described in subsection (n) of this section and the minimum valuation standards consistent with those requirements.
  - c. For policies and contracts subject to a principle-based valuation under subsection (n) of this section, each of the following:
    - 1. Requirements for the format of reports to the Commissioner under sub-subdivision (2)c. of subsection (n) of this section. Such reports shall include information necessary to determine if the valuation is appropriate and in compliance with this section.
    - 2. Assumptions shall be prescribed for risks over which the company does not have significant control or influence.
    - 3. Procedures for corporate governance and oversight of the actuarial function and a process for appropriate waiver or modification of such procedures.
  - d. For policies not subject to a principle-based valuation under subsection (n) of this section, the minimum valuation standard shall either:
    - 1. Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or
    - 2. Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.
  - e. Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls.
  - f. The data and form of the data required under subsection (o) of this section, to whom the data must be submitted, and may specify other requirements, including data analyses and reporting of analyses.
- (5) In the absence of a specific valuation requirement, or if a specific valuation requirement in the valuation manual is not, in the opinion of the Commissioner, in compliance with this section, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the Commissioner by rule.
  - (6) The Commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The Commissioner may rely upon the opinion, regarding provisions contained in this section, of a qualified actuary engaged by the insurance regulator of another state, district, or territory of the United States. As used in this subdivision, the term "engage" includes employment and contracting.
  - (7) The Commissioner may require a company to change any assumption or method that, in the opinion of the Commissioner, is necessary in order to comply with the requirements of the valuation manual or this section; and the company shall adjust the reserves as required by the Commissioner. The Commissioner may take other disciplinary action as specified in rules adopted by the Commissioner.
- (n) The requirements of this subsection shall apply to any principle-based valuation of policies issued on or after the operative date of the valuation manual.
- (1) A company using a principle-based valuation for one or more policies or contracts subject to this subsection as specified in the valuation manual must



establish, for those policies and contracts, reserves that meet all of the following:

- a. Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, the reserves shall reflect conditions appropriately adverse to quantify the tail risk.
- b. Incorporate assumptions, risk analysis methods, financial models, and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.
- c. Incorporate assumptions that are derived in one of the following manners:
  - 1. The assumption is prescribed in the valuation manual.
  - 2. For assumptions that are not prescribed, the assumptions shall (i) be established utilizing the company's available experience, to the extent it is relevant and statistically credible; or (ii) to the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.
- d. Provide margins for uncertainty, including adverse deviation and estimation error, such that the greater the uncertainty, the larger the margin and resulting reserve.

(2) A company using a principle-based valuation for one or more policies or contracts subject to this subsection as specified in the valuation manual shall do the following:

- a. Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.
- b. Provide to the Commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year.
- c. Develop, and file with the Commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(o) A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

(p) The confidentiality of documents, materials, and other information provided to the Commissioner under this section shall be maintained as described in this subsection.

(1) For purposes of this subsection, "confidential information" shall include all of the following:

- a. A memorandum in support of an opinion submitted under subsection (i) or (j1) of this section and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the Commissioner or any other person in connection with such memorandum.
- b. All documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the Commissioner or any other person

- in the course of an examination made under subdivision (6) of subsection (m) of this section; provided, however, that if an examination report or other material prepared in connection with an examination made under the Examination Law (G.S. 58-2-131 through G.S. 58-2-134) is not held as private and confidential information under the Examination Law, an examination report or other material prepared in connection with an examination made under subdivision (6) of subsection (m) of this section shall not be "confidential information" to the same extent as if such examination report or other material had been prepared under the Examination Law.
- c. Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under sub-subdivision (2)b. of subsection (n) of this section evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the Commissioner or any other person in connection with such reports, documents, materials, and other information.
  - d. Any principle-based valuation report developed under sub-subdivision (2)c. of subsection (n) of this section and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the Commissioner or any other person in connection with such report.
  - e. Any documents, materials, data, and other information submitted by a company under subsection (o) of this section (collectively, "experience data") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the Commissioner (together with any "experience data," the "experience materials") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the Commissioner or any other person in connection with such experience materials.
- (2) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, shall not be subject to or considered public record under G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties.
  - (3) Neither the Commissioner nor any person who received confidential information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential information.
  - (4) In order to assist in the performance of the Commissioner's duties, the Commissioner may share confidential information (i) with other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries, and (ii) in the case of confidential information specified in sub-subdivisions (1)a. and (1)d. of this subsection only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of

professional disciplinary proceedings and with state, federal, and international law enforcement officials; in the case of (i) and (ii), provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data, and other information in the same manner and to the same extent as required for the Commissioner.

- (5) The Commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.
- (6) The Commissioner may enter into agreements governing the sharing and use of information consistent with this subsection.
- (7) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the Commissioner under this subsection or as a result of sharing as authorized in subdivision (4) of this subsection.
- (8) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection shall be available and enforced in any proceeding in, and in any court of, this State.
- (9) In this subsection, "regulatory agency," "law enforcement agency," and the "NAIC" include, but are not limited to, their employees, agents, consultants, and contractors.
- (10) Notwithstanding subdivisions (2) through (9) of this subsection, confidential information specified in sub-subdivisions (1)a. and (1)d. of this subsection may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsection (i) or (j1) of this section or a principle-based valuation report developed under sub-subdivision (2)c. of subsection (n) of this section by reason of an action required by this section or by rules promulgated by the Commissioner. Such confidential information may otherwise be released by the Commissioner with the written consent of the company. Once any portion of a memorandum in support of an opinion submitted under subsection (i) or (j1) of this section or a principle-based valuation report developed under sub-subdivision (2)c. of subsection (n) of this section is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

(q) The Commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this State from the requirements of subsection (m) of this section, provided (i) the Commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing and (ii) the company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the Commissioner by rule. For any company granted an exemption under this subsection, the following subsections of this section shall be applicable: (c), (d), (d1), (e), (f), (g), (h), (i), (j), (j1), (j2), and (k), excluding any references to subsection (m) found therein.

(r) The Department shall have full authority to enter into contracts or other agreements with the National Association of Insurance Commissioners or any other state, entity, or person to fulfill the requirements of this section. Such contracts shall not be subject to Articles 3, 3C, and 8 of Chapter 143 of the General Statutes or any rules and procedures adopted under those Articles concerning procurement, contracting, and contract review."

**SECTION 2.** G.S. 58-58-55 reads as rewritten:  
**"§ 58-58-55. Standard nonforfeiture provisions.**

- ...
- (e) (1) This subdivision (1) of subsection (e) shall not apply to policies issued on or after the operative date of subdivision (4) of subsection (e) as defined therein. Except as provided in the third paragraph of this subdivision, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) two percent (2%) of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty percent (40%) of the adjusted premium for the first policy year; (iv) twenty-five percent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. Provided, however, that in applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed four percent (4%) of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (i) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (ii) the adjusted premiums for such term insurance, the foregoing items (i) and (ii) being calculated separately and as specified in the first two paragraphs of this subsection except that, for the purposes of (ii), (iii) and (iv) of the first such paragraph, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (ii) of this paragraph shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (i).

Except as otherwise provided in subdivisions (2) and (3) of this subsection, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioner's 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be

made on the basis of the rate of interest, not exceeding three and one-half percent (3 1/2%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may not be more than one hundred and thirty percent (130%) of the rates of mortality according to such applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the Commissioner.

- ...
- (4) a. This subdivision shall apply to all policies issued on or after the operative date of this subdivision (4) of subsection (e) as defined herein. Except as provided in paragraph g of this subdivision, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) one percent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and (iii) one hundred twenty-five percent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (iii) above no nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this subdivision shall be the date as of which the rated age of the insured is determined.

- ...
- h. All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of (i) the Commissioner's 1980 Standard Ordinary Mortality Table or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subdivision for policies issued in that calendar year. Provided, however, that:

- ...
6. ~~Any~~ For policies issued prior to the operative date of the valuation manual, which is defined in G.S. 58-58-51, any Commissioners Standard ordinary mortality tables, adopted after 1980 by the NAIC, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the

Commissioner's 1980 Extended Term Insurance Table. For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard ordinary mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

7. ~~Any~~ For policies issued prior to the operative date of the valuation manual, any Commissioners Standard industrial mortality tables, adopted after 1980 by the NAIC, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's 1961 Industrial Extended Term Insurance Table. For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Industrial Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard industrial mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

i. ~~The~~ For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred and twenty-five percent (125%) of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearer one quarter of one percent (~~1/4 of 1%~~), (1/4 of 1%), but not less than four percent (4%). For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

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

**"§ 58-58-51. NAIC valuation manual operative date.**

(a) As used in the section, "valuation manual" means the manual of valuation instructions adopted by the NAIC or as subsequently amended.

(b) The operative date of the valuation manual is January 1 of the first calendar year that begins following the first July 1 as of which all of the following have occurred:

(1) The valuation manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater.

(2) The model Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing more than seventy-five percent (75%) of the

direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; and fraternal annual statements.

- (3) The model Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions: the 50 states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico."

**SECTION 4.** G.S. 58-58-50(j) reads as rewritten:

"(j) Each opinion required by subsection (i) of this section shall be governed by the following provisions:

- (1) A memorandum, in form and substance acceptable to the Commissioner as specified by rule, shall be prepared to support each actuarial opinion.
- (2) If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified by rule or the Commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the Commissioner.
- (3) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1994.
- (4) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the Commissioner as specified by rule.
- (5) The opinion shall be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the Commissioner may by rule prescribe.
- (6) In the case of an opinion required to be submitted by a foreign or alien company, the Commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.
- (7) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirement set forth in such rules.
- (8) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person (other than the insurance company and the Commissioner) for any act, error, omission, decision, or conduct with respect to the actuary's opinion.
- (9) Disciplinary action by the Commissioner against the company or the qualified actuary shall be defined in rules by the Commissioner.
- (10) ~~Any memorandum in support of the opinion, and any other material provided by the company to the Commissioner in connection therewith, shall be kept confidential by the Commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules adopted under this section; provided, however, that the memorandum or other material may otherwise be released by the Commissioner (i) with the written consent of the company or (ii) to the American Academy of Actuaries upon request stating the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all~~

- ~~portions of the confidential memorandum shall be no longer confidential.~~ Except as provided in subdivisions (14), (15), and (16) of this subsection, documents, materials, or other information in the possession or control of the Commissioner that are included in a memorandum in support of the opinion, and any other material provided by the company to the Commissioner in connection with the opinion, shall be confidential by law and privileged, shall not be subject to or public records under G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.
- (11) Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner shall be permitted or required to testify concerning any confidential documents, materials, or information subject to subdivision (10) of this subsection in any private civil action.
- (12) In order to assist in the performance of the Commissioner's duties, the Commissioner may do any of the following:
- a. Share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subdivision (10) of this subsection, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information.
  - b. Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.
  - c. Enter into agreements governing sharing and use of information consistent with subdivisions (10) through (12) of this subsection.
- (13) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing authorized by subdivision (12) of this subsection.
- (14) A memorandum in support of an opinion, and any other material provided by the company in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of any action required by this section or by rules adopted under this section.
- (15) The memorandum or other material may otherwise be released by the Commissioner (i) with the written consent of the company or (ii) to the American Academy of Actuaries upon request stating the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material.
- (16) Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall no longer be confidential."



**SECTION 5.** If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

## **PART II. CONFORMING AND CLARIFYING CHANGES TO VARIOUS INSURANCE LAW PROVISIONS**

**SECTION 6.** G.S. 58-89A-60(d) reads as rewritten:

"(d) Every applicant shall furnish the Commissioner a complete set of fingerprints ~~and a recent photograph of each officer, director, and controlling person~~ in a form prescribed by the ~~Commissioner of each officer, director, and controlling person.~~ Commissioner. Each set of fingerprints shall be certified by an authorized law enforcement officer.

Upon request by the Department, the Department of Public Safety shall provide to the Department from the State and National Repositories of Criminal Histories the criminal history of any applicant and the officer, director, and controlling person of any applicant. Along with the request, the Department shall provide to the Department of Public Safety the fingerprints of the person that is the subject of the request, a form signed by the person that is the subject of the request consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation may forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department shall keep all information obtained pursuant to this subsection confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

In the event that an applicant has secured a professional employer organization license in another state in which the professional employer organization's controlling persons have completed a criminal background investigation within 12 months of this application, a certified copy of the report from the appropriate authority of that state may satisfy the requirement of this subsection. This subsection also applies to a change in a controlling party of a professional employer organization. For purposes of investigation under this subsection, the Commissioner shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this Chapter."

**SECTION 7.** G.S. 58-5-55(a) reads as rewritten:

"(a) In addition to other requirements of Articles 1 through 64 of this Chapter, all domestic stock insurance companies shall deposit their required statutory capital with the ~~Commissioner.~~ Commissioner, and all domestic nonstock insurance companies shall deposit their required statutory surplus with the Commissioner. Such deposits shall be under the exclusive control of the Commissioner for the protection of policyholders."

**SECTION 8.** G.S. 58-64-80 reads as rewritten:

**"§ 58-64-80. Advisory Committee.**

There shall be a nine member Continuing Care Advisory Committee appointed by the Commissioner. The Committee shall consist of at least two residents of facilities, two representatives of ~~the North Carolina Association of Nonprofit Homes for the Aging, LeadingAge North Carolina,~~ one individual who is a certified public accountant and is licensed to practice in this State, one individual skilled in the field of architecture or engineering, and one individual who is a health care professional."

**SECTION 9.** G.S. 58-50-82(b)(1) reads as rewritten:

**"§ 58-50-82. Expedited external review.**

- ...
- (1) Notify the insurer that made the noncertification, noncertification appeal decision, or second-level grievance review decision which is the subject of the request that the request has been received and provide a copy of the request. The Commissioner shall also request any information from the insurer necessary to make the preliminary review set forth in G.S. 58-50-80(b)(2) and require the insurer to deliver the information not later than one business-day after the request was made."

**SECTION 10.** G.S. 58-3-50 reads as rewritten:

**"§ 58-3-50. Companies must do business in own name; emblems, insignias, etc.**

Every insurance company or group of companies must conduct its business in the State in, and the policies and contracts of insurance issued by it shall be headed or entitled only by, its proper or corporate name or names. There shall not appear on the policy anything that would indicate that it is the obligation of any other than the company or companies responsible for the payment of losses under the policy, though it will be permissible to stamp or print on the policy, the name or names of the department or general agency issuing the same, and the group of companies with which the company is financially affiliated. The use of any emblem, insignia, or anything other than the true and proper corporate name of the company or group of companies shall be permitted only with the approval of the ~~Commissioner~~Commissioner; provided that, with the exception of policies subject to the provisions of Article 36 of this Chapter, a coverage within a policy may be issued by more than one company, so long as the policy clearly identifies the company responsible for each coverage."

### **PART III. REVISION TO INSURANCE POLICY RENEWAL PROVISION**

**SECTION 11.** G.S. 58-41-20 is amended by adding a new subsection to read:

**"§ 58-41-20. Notice of nonrenewal, premium rate increase, or change in coverage required.**

...  
(g) Delivery by an insurer of a policy superseding a policy previously issued by the insurer at the end of the previously issued policy period is not a refusal to renew when it is delivered by:

(1) The same insurer; or

(2) An affiliate or subsidiary, as those terms are defined in G.S. 58-19-5, that has a financial strength rating, issued by an industry-recognized independent insurance rating company, which financial strength rating is at least as good as the insurer issuing the superseded policy. The provisions of G.S. 58-41-25 apply to the affiliate or subsidiary as if it were the same insurer issuing the policy."

### **PART IV. AMENDMENT TO DEFINITION OF SMALL EMPLOYER**

**SECTION 12.** Section 4(b) of S.L. 2013-357 reads as rewritten:

**"SECTION 4.(b)** G.S. 58-50-110 reads as rewritten:

**"§ 58-50-110. Definitions.**

As used in this Act:

...  
(22b) "Small employer" means, in connection with a nongrandfathered nontransitional group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 100 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year meets the definition of small employer under 42 U.S.C. § 18024(b). The number of employees shall be determined using the method set forth in section 4980H(c)(2) of the Internal Revenue Code.

...."

### **PART V. TECHNICAL CORRECTIONS**

**SECTION 13.** Section 6 of S.L. 2015-146 reads as rewritten:

**"SECTION 6.** ~~Sections 1 and 3~~ Part I of this act ~~become~~becomes effective July 1, 2015. Section 2 of this act becomes effective January 1, 2017. Section 5 of this act becomes effective July 1, 2015, and applies to optional enhancements, as described in that section, filed and approved on or after that date. The remainder of this act is effective when it becomes law."

**SECTION 14.** Section 7 of S.L. 2015-101 reads as rewritten:

**"SECTION 7.** ~~This~~ Sections 4, 5, and 6 of this act become effective January 1, 2017. The remainder of this act is effective when it becomes law."

**SECTION 15.** Sections 1 and 2 of Part I of this act become effective on the operative date of the manual of valuation instructions adopted by the National Association of Insurance Commissioners as provided in G.S. 58-58-51. The remainder of Part I of this act is effective when this act becomes law. Section 9 of Part II of this act becomes effective on January 1, 2016. The remainder of Part II of this act is effective when this act becomes law. Part III of this act is effective when this act becomes law. Part IV of this act becomes effective on January 1, 2016. Part V of this act is effective when this act becomes law.

In the General Assembly read three times and ratified this the 23<sup>rd</sup> day of September, 2015.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 8:40 a.m. this 22<sup>nd</sup> day of October, 2015