

## **Chapter 58.**

### **Insurance.**

#### Article 1.

##### Title and Definitions.

#### **§ 58-1-1. Title of the Chapter.**

Articles 1 through 64 of this Chapter may be cited and shall be known as the Insurance Law. (1899, c. 54; Rev., s. 4677; C.S., s. 6260.)

#### **§ 58-1-2. Insurance secondary sources not authoritative.**

A secondary source on insurance in any legal treatise, scholarly publication, textbook, or other explanatory text does not constitute the law or public policy of the State and is not authoritative if the secondary source purports to create, eliminate, expand, or restrict a cause of action, right, or remedy or if it conflicts with:

- (1) The Constitution of the United States or the Constitution of North Carolina;
- (2) The General Statutes;
- (3) North Carolina case law precedent; or
- (4) Other common law that may have been adopted by North Carolina courts. (2021-117, s. 8A.)

#### **§ 58-1-5. Definitions.**

In this Chapter, unless the context clearly requires otherwise:

- (1) "Alien company" means a company incorporated or organized under the laws of any jurisdiction outside of the United States.
- (1a) "Commercial aircraft" means aircraft used in domestic, flag, supplemental, commuter, or on-demand operations, as defined in Federal Aviation Administration Regulations, 14 C.F.R. § 119.3, as amended.
- (2) "Commissioner" means the Commissioner of Insurance of North Carolina or an authorized designee of the Commissioner.
- (3) "Company" or "insurance company" or "insurer" includes any corporation, association, partnership, society, order, individual or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations. "Company" or "insurance company" or "insurer" does not mean the State of North Carolina or any county, city, or other political subdivision of the State of North Carolina.
- (4) "Department" means the Department of Insurance of North Carolina.
- (5) "Domestic company" means a company incorporated or organized under the laws of this State.
- (6) "Foreign company" means a company incorporated or organized under the laws of the United States or of any jurisdiction within the United States other than this State.
- (7) "NAIC" means the National Association of Insurance Commissioners.
- (8) Repealed by Session Laws 1999-219, s. 5.5.

- (9) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert.
- (10) The singular form includes the plural, and the masculine form includes the feminine wherever appropriate. (1899, c. 54, s. 1; Rev., s. 4678; C.S., s. 6261; 1945, c. 383; 1971, c. 510, s. 1; 1987, c. 864, s. 34; 1995, c. 193, s. 1; 1999-219, s. 5.5; 2001-334, s. 18.2.)

**§ 58-1-10. Contract of insurance.**

A contract of insurance is an agreement by which the insurer is bound to pay money or its equivalent or to do some act of value to the insured upon, and as an indemnity or reimbursement for the destruction, loss, or injury of something in which the other party has an interest. (1899, c. 54, s. 2; Rev., s. 4679; C.S., s. 6262; 1945, c. 383.)

**§ 58-1-15. Warranties by manufacturers, distributors, or sellers of goods or services.**

(a) As used in this section:

- (1) "Goods" means all things that are moveable at the time of sale or at the time the buyer takes possession. "Goods" includes things not in existence at the time the transaction is entered into; and includes things that are furnished or used at the time of sale or subsequently in modernization, rehabilitation, repair, alteration, improvement, or construction on real property so as to become a part of real property whether or not they are severable from real property.
- (2) "Services" means work, labor, and other personal services.

(b) Any warranty, including ancillary anti-theft protection program warranties as defined by G.S. 66-370(b)(1a), made solely by a manufacturer, distributor, or seller of goods or services without charge, or an extended warranty offered as an option and made solely by a manufacturer, distributor, or seller of goods or services for charge, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or any other remedial measure, including replacement of goods or repetition of services, shall not be a contract of insurance under Articles 1 through 64 of this Chapter; however, service agreements on motor vehicles are governed by G.S. 66-370, 66-372, and 66-373. Service agreements on home appliances are governed by G.S. 66-371, 66-372, and 66-373.

(b1) Service agreements on home appliances or on motor vehicles offered in compliance with Article 43 of Chapter 66 of the General Statutes shall not be contracts of insurance and shall be exempt from all provisions of this Chapter unless otherwise expressly provided.

(c) Nothing in this section affects the provisions of Article 28 of this Chapter. Any warranty or extended warranty made by any person other than the manufacturer, distributor, or seller of the warranted goods or services is a contract of insurance.

(d) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1021, s. 3. (1959, c. 866; 1975, cc. 643, 788; 1977, c. 185; 1987, c. 369; 1989, c. 789, s. 2; 1989 (Reg. Sess., 1990), c. 1021, s. 3; 1991 (Reg. Sess., 1992), c. 1014, s. 2; 1995, c. 193, s. 2; 2007-95, s. 7; 2015-283, s. 2.)

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

(a) Any warranty relating to fixtures to real property issued by a person is a contract of insurance, except the following:

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

(2) A warranty providing for the repair or replacement of the items covered by the warranty for defective parts and mechanical failure or resulting from ordinary wear and tear, and excluding from its coverage damage from recognizable perils, such as fire, flood, and wind, that neither relate to any defect in the items covered nor result from ordinary wear and tear.

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

(c) Persons issuing real property warranties shall comply with the requirements of G.S. 66-373. (1979, c. 773, s. 1; 1987, c. 864, s. 9; 1991, c. 644, s. 43; 2003-290, s. 1(a); 2007-95, s. 8.)

§ 58-1-25: Recodified as G.S. 66-370 by Session Laws 2007-95, ss. 2-5, effective October 1, 2007.

§ 58-1-30: Recodified as G.S. 66-371 by Session Laws 2007-95, ss. 2-5, effective October 1, 2007.

§ 58-1-35: Recodified as G.S. 66-372 by Session Laws 2007-95, ss. 2-5, effective October 1, 2007.

§ 58-1-36: Recodified as G.S. 66-373 by Session Laws 2007-95, ss. 2-5, effective October 1, 2007.

§ 58-1-40: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 730, s. 3.

§ 58-1-42: Recodified as G.S. 66-374 by Session Laws 2007-95, s. 6, effective October 1, 2007.

§§ 58-1-45, 58-1-50: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 730, s. 3.