Article 63.

Unfair Trade Practices.

§ 58-63-1. Declaration of purpose.

The purpose of this Article is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined. (1949, c. 1112.)

§ 58-63-5. Definitions.

When used in this Article:

(1) Repealed by Session Laws 1991, c. 720, s. 6.

(2) "Person" means any individual, corporation, association, multiple employer welfare arrangement, partnership, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance under this Chapter; and includes insurance producers, agents, brokers, limited representatives, and adjusters. (1949, c. 1112; 1987, c. 629, s. 10; 1991, c. 720, s. 6; 1999-244, s. 13; 2022-46, s. 14(aaaa); 2024-57, s. 3G.1(d).)

§ 58-63-10. Unfair methods of competition or unfair and deceptive acts or practices prohibited.

No person shall engage in this State in any trade practice which is defined in this Article as or determined pursuant to this Article to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. (1949, c. 1112.)

§ 58-63-15. Unfair methods of competition and unfair or deceptive acts or practices defined.

The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(1) Misrepresentations and False Advertising of Policy Contracts. – Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share or surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) False Information and Advertising Generally. – Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice,

circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(3) Defamation. – Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Boycott, Coercion and Intimidation. – Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

(5) False Financial Statements. – Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

(6) Stock Operations and Insurance Company Advisory Board Contracts. – Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or any insurance company advisory board contracts or other contracts of any kind promising returns and profit as an inducement to insurance.

(7) Unfair Discrimination. –

a. Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

b. Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

c. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazard by refusing to issue, refusing to renew, cancelling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:
    1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination, or
    2. The refusal, cancellation, or limitation is required by law.

d. Making or permitting any unfair discrimination between or among individuals or risks of the same class and of essentially the same hazard by refusing to issue, refusing to renew, cancelling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:
    1. The refusal or limitation is for the purpose of preserving the solvency of the insurer and is not a mere pretext for unfair discrimination, or
    2. The refusal, cancellation, or limitation is required by law.

(8) **(Effective until January 1, 2027)** Rebates. –

a. Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

b. Nothing in subdivision (7) or paragraph a of subdivision (8) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:
    1. In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided, that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;
    2. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously

for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

3. Readjustment of the rate of premium for a group insurance policy based on the loss or expense experienced thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

4. **(Repealed effective January 1, 2027 – see note)** The trade practices permitted by G.S. 58-63-16.

c. No insurer or employee thereof, and no insurance producer shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed insurance producers duly licensed by this State; nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits.

(8) **(Effective January 1, 2027)** Rebates. –

a. Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

b. Nothing in subdivision (7) or sub-subdivision a. of subdivision (8) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:

1. In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided, that any such bonuses or abatement of premiums shall be fair and equitable to

policyholders and for the best interests of the company and its policyholders;

2. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;
3. Readjustment of the rate of premium for a group insurance policy based on the loss or expense experienced thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.
4. Repealed by Session Laws 2025-45, s. 6(a), as amended by Session Laws 2025-97, s. 6.11, effective January 1, 2027.
5. Engaging in an arrangement that would not violate section 106 of the Bank Holding Company Act Amendments of 1972 (12 U.S.C. § 1972), as interpreted by the Board of Governors of the Federal Reserve System, or section 5(q) of the Home Owners' Loan Act, 12 U.S.C. § 1464(q).
6. The offer or provision by insurers or producers, by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance if all of the following criteria are met:
    I. Relates to the insurance coverage and is primarily designed to satisfy one or more of the following:
        A. Providing loss mitigation or loss control.
        B. Reducing claim costs or claim settlement costs.
        C. Providing education about liability risks or risk of loss to persons or property.
        D. Monitoring or assessing risk, identifying sources of risk, or developing strategies for eliminating or reducing risk.
        E. Enhancing health.
        F. Enhancing financial wellness through items such as education or financial planning services.
        G. Providing post-loss services.
        H. Incentivizing behavioral changes to improve the health or reduce the risk of death or disability of a customer. For purposes of this sub-sub-sub-sub-subdivision, "customer" means a policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured, or applicant.
        I. Assisting in the administration of the employee or retiree benefit insurance coverage.

II. If the insurer or producer is providing the product or service offered, the insurer or producer must ensure that the customer is provided with contact information to assist the customer with questions regarding the product or service.

III. The availability of the value-added product or service must be based on documented objective criteria and offered in a manner that is not unfairly discriminatory. The documented criteria must be maintained by the insurer or producer and produced upon request by the Department.

7. The offer or provision of products or services that otherwise meet the criteria of sub-sub-subdivision 6. of this sub-subdivision, where the insurer or producer does not have sufficient evidence to demonstrate but has a good-faith belief that the products or service satisfies one or more of the conditions listed in sub-sub-sub-sub-subdivisions A. through I. of sub-sub-sub-subdivision I. of sub-sub-subdivision 6. of this sub-subdivision. The products and services shall be offered or provided in a manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one year. An insurer or producer offering or providing products or services pursuant to this sub-sub-subdivision must notify the Department of the pilot or testing program prior to implementation and may proceed with the program unless the Department objects within 21 days of notice.

8. The offer or gifting by an insurer or producer of noncash gifts, items, or services, including meals to or charitable donations on behalf of a customer, if all of the following criteria are met:

I. The noncash gifts, items, or services are made to, or on behalf of, customers, including commercial or institutional customers, in connection with the marketing, sale, purchase, or retention of contracts of insurance.

II. The cost of the noncash gifts, items, or services does not exceed two hundred fifty dollars ($250.00) per policy term.

III. The offer or gift is made in a manner that is not unfairly discriminatory.

IV. The customer is not required to purchase, continue to purchase, or renew a policy in exchange for the offer or gift.

9. The conducting of drawings or raffles by an insurer or producer, to the extent they are otherwise permitted by law, if all of the following criteria are met:

I. There is no financial cost to entrants to participate in the drawing or raffle.

II. The drawing or raffle does not obligate participants to purchase insurance.

III. The prizes of the drawing or raffle are not valued in excess of two hundred fifty dollars ($250.00).

IV. The drawing or raffle is open to the public and conducted in a manner that is not unfairly discriminatory.

V. The customer is not required to purchase, continue to purchase, or renew a policy in exchange for participation in the drawing or raffle.

c. No insurer or employee thereof, and no insurance producer shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance. Nothing herein contained shall be construed as prohibiting: (i) the payment of commissions or other compensation to regularly appointed and licensed insurance producers duly licensed by this State, (ii) any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits, or (iii) the trade practices permitted by sub-subdivision b. of this subdivision.

d. An insurer, producer, or representative of either may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use the words "free," "no cost," or words of similar import about the policy sale or purchase, in an advertisement. The prohibition on the use of the words "free" and "no cost" in this sub-subdivision does not apply to products or services described in sub-sub-subdivision 6., 7., 8., or 9. of sub-subdivision b. of subdivision (8) of this section or in G.S. 58-63-16(a).

(9) Advertising of Health, Accident or Hospitalization Insurance. – In all advertising of policies, certificates or service plans of health, accident or hospitalization insurance, except those providing group coverage, where details of benefits provided by a particular policy, certificate or plan are set forth in any advertising material, such advertising material shall contain reference to the major exceptions or major clauses limiting or voiding liability contained in the policy, certificate or plan so advertised. The references to such exceptions or clauses shall be printed in a type no smaller than that used to set forth the benefits of the policy, certificate or plan. In all advertising of such policies, certificates or plans which contain a cancellation provision or a provision that the policies, certificates or plans may be renewed at the option of the company or medical service corporation only, such advertising material shall contain

clear and definite reference to the fact that the policies, certificates or plans are cancellable or that the same may be renewed at the option of the company only.

In advertising, sale, or solicitation for sale of any insurance policy represented or advertised to afford coverages and benefits supplemental to or in addition to Medicare coverage, all such advertising materials, except for advertisements which have as their objective the creation of a desire to inquire further about an insurance product and do nothing more than generally describe the product and invite inquiries for costs and further details of the coverage, including limitations, exclusions, reductions or limitations and terms under which the policy may be continued in force, in whatever medium, and all solicitation and presentations for the sale of such policies, shall contain specific references to major exclusions or major exceptions that may result in voiding liability or in a reduction of benefits below those primarily advertised. When such policies contain a coordination of benefits clause whereby benefits are limited by or prorated with other outstanding coverages, such provision shall be called to the attention of the prospective purchaser by conspicuously printed type no smaller than 10 point type. When such policies are advertised to provide coverage above Medicare payments, but contain provisions limiting benefits to those approved for payment by Medicare under Part B, such limitation in benefits shall be called to the attention of the prospective purchaser regardless of the advertising medium; and when policies containing such provisions are delivered, there shall be incorporated therein the language or affixed thereto a sticker in conspicuously printed type no smaller than 10 point type stating: CAUTION: POLICY BENEFITS ARE LIMITED TO THOSE APPROVED BY MEDICARE FOR PAYMENT. Any person engaged in the solicitation or sale of such supplemental Medicare policies in this State shall, as a part of the application, determine and list on the application all policies of Medicare supplement or other health insurance currently in force that cover the prospective insured. In compiling such information, the person is entitled to rely upon information furnished by the prospective purchaser or insured.

(10) Soliciting, etc., Unauthorized Insurance Contracts in Other States. – Soliciting, advertising or entering into insurance contracts in foreign states and any other jurisdiction in which such domestic insurer is not licensed in accordance with the laws of such state or jurisdiction, except as provided in G.S. 58-14-5.

(11) Unfair Claim Settlement Practices. – Committing or performing with such frequency as to indicate a general business practice of any of the following: Provided, however, that no violation of this subsection shall of itself create any cause of action in favor of any person other than the Commissioner:

a. Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

b. Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

c. Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

d. Refusing to pay claims without conducting a reasonable investigation based upon all available information;

e. Failing to affirm or deny coverage of claims within a reasonable time after proof-of-loss statements have been completed;
f. Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
g. Compelling [the] insured to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insured;
h. Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled;
i. Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured;
j. Making claims payments to insureds or beneficiaries not accompanied by [a] statement setting forth the coverage under which the payments are being made;
k. Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
l. Delaying the investigation or payment of claims by requiring an insured claimant, or the physician, of [or] either, to submit a preliminary claim report and then requiring the subsequent submission of formal proof-of-loss forms, both of which submissions contain substantially the same information;
m. Failing to promptly settle claims where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; and
n. Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(12) Misuse of Borrowers' Confidential Information. – Soliciting, accepting, or using any information from a lender concerning policies of insurance held by such lender as a mortgagee of real property, except from a lender who is an insurer where the loan has been made by or sold or held for sale to such insurer. Provided, however, this subdivision shall not apply to the use of such information by a lender for the solicitation of life or accident and health insurance.

(13) Overinsurance in Credit or Loan Transactions. – In connection with a loan or extension of credit secured by real or personal property or both, requiring the applicant to procure property and casualty insurance against any one risk which results in coverage which exceeds the replacement value of the secured property at the time of the loan or extension of credit. In connection with a secured or unsecured loan or extension of credit, requiring the applicant to procure life or health insurance against any one risk which exceeds the amount of the loan. In connection with a loan secured by both real and personal property, requiring credit property insurance, as defined in G.S. 58-57-90, on the personal property.

For the purposes of this subsection "amount of loan" shall be deemed to be the amount of principal and accrued interest to be paid by the debtor including other allowable charges. (1949, c. 1112; 1955, c. 850, s. 3; 1967, c. 935, s. 2; 1975, c. 668; 1983, c. 831; 1985 (Reg. Sess., 1986), c. 1027, ss. 18, 20; 1987, c. 787, ss. 1, 3; 2022-46, s. 14(bbbb); 2024-11, s. 4; 2025-45, s. 6(a), (b); 2025-97, s. 6.11.)

§ 58-63-16. (Repealed effective January 1, 2027) Permitted trade practices.

(a) An insurer, insurance producer, or limited representative may offer or provide products or services under any of the following circumstances:

(1) The products or services are offered in connection with the marketing, purchase, or retention of an insurance contract and do not exceed an aggregate retail value of two hundred fifty dollars ($250.00) per person per year.

(2) The products or services are offered without fee or at a reduced fee and are related to the servicing of an insurance contract or are offered or undertaken to provide risk control for the benefit of an insured.

(3) The products or services are offered without fee or at a reduced fee and all of the following conditions are met:

a. The receipt of the products or services is not contingent upon the purchase of insurance.

b. The services are offered on the same terms to all potential eligible insurance customers.

c. The requirements of this subdivision are conspicuously disclosed to the recipient in writing.

(b) For purposes of this section, the terms "insurance producer" and "limited representative" are defined by G.S. 58-33-10.

(c) This section shall not apply to title insurance. (2024-11, s. 2; 2025-45, s. 6(a); repealed by 2025-97, s. 6.11, effective January 1, 2027.)

§ 58-63-20. Power of Commissioner.

The Commissioner shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this State in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by G.S. 58-63-10. (1949, c. 1112; 1991, c. 720, s. 62.)

§ 58-63-25. Hearings, witnesses, appearances, production of books and service of process.

(a) When the Commissioner has reason to believe that any person has been engaged or is engaging in this State in any unfair method of competition or any unfair or deceptive act or practice defined in G.S. 58-63-15 or under G.S. 58-63-65, and that a proceeding by the Commissioner on the matter would be in the interest of the public, the Commissioner shall issue and serve upon the person a statement of the charges in that respect and a notice of the hearing on the matter to be held at the time and place fixed in the notice, which shall not be less than 10 days after the date of the service of the notice.

(b) At the time and place fixed for such hearing, such person shall have an opportunity to be heard and to show cause why an order should not be made by the Commissioner requiring such person to cease and desist from the acts, methods or practices so complained of. Upon good cause

shown, the Commissioner shall permit any person to intervene, appear and be heard at such hearing by counsel or in person.

(c) Nothing contained in this Article shall require the observance at any such hearing of formal rules of pleading or evidence.

(d) The Commissioner, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. The Commissioner, upon such hearing, may, and upon the request of any party shall, cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the Commissioner shall prepare a statement of the evidence and proceeding for use on review. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the Superior Court of Wake County, on application of the Commissioner, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof.

(e) Statements of charges, notices, orders, and other processes of the Commissioner under this Article may be served by anyone duly authorized by the Commissioner, either in the manner provided by law for service of process in civil actions, or by registering and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order, or other process, registered and mailed as aforesaid, shall be proof of the service of the same. (1949, c. 1112; 1995, c. 193, s. 49.)

§ 58-63-30: Repealed by Session Laws 1991, c. 644, s. 29.

§ 58-63-32. Cease and desist order.

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

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

(c) After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within that time, the Commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any order issued by the Commissioner under this section, whenever in the Commissioner's opinion conditions of fact or of law have so changed as to require the action or if the public interest requires. (1991, c. 644, s. 28.)

§ 58-63-35. Judicial review of cease and desist orders.

(a) Any person required by an order of the Commissioner under G.S. 58-63-32 to cease and desist from engaging in any unfair method of competition or any unfair or deceptive act or practice defined in G.S. 58-63-15 may obtain a review of the order by filing in the Superior Court of Wake County, within 30 days from the date of the service of such order, a written petition praying that the order of the Commissioner be set aside. A copy of the petition shall be immediately served upon the Commissioner, and at that time the Commissioner immediately shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the Commissioner. Upon the filing of the petition and transcript, the court has jurisdiction of the proceeding and of the question determined therein, shall determine whether the filing of the petition shall operate as a stay of the Commissioner's order, and has power to make and enter upon the pleadings, evidence, and proceedings set forth in the transcript a decree modifying, affirming or reversing the order of the Commissioner, in whole or in part. The findings of the Commissioner as to the facts, if supported by substantial evidence, are conclusive.

(b) To the extent that the order of the Commissioner is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commissioner. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commissioner, the court may order such additional evidence to be taken before the Commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commissioner may modify his findings of fact, or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings which, if supported by substantial evidence shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(c) A cease and desist order issued by the Commissioner under G.S. 58-63-30 shall become final:

(1) Upon the expiration of the time allowed for filing a petition for review if no such petition has been duly filed within such time; except that the Commissioner may thereafter modify or set aside his order to the extent provided in G.S. 58-63-30(b); or

(2) Upon the final decision of the court if the court directs that the order of the Commissioner be affirmed or the petition for review dismissed.

(d) No order of the Commissioner under this Article or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this State. (1949, c. 1112; 1995, c. 193, s. 50.)

§ 58-63-40. Procedure as to unfair methods of competition and unfair or deceptive acts or practices which are not defined.

(a) Whenever the Commissioner shall have reason to believe that any person engaged in the business of insurance is engaging in this State in any method of competition or in any act or practice in the conduct of such business which is not defined in G.S. 58-63-15, that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 10 days after the date of the service thereof.

Each such hearing shall be conducted in the same manner as the hearings provided for in G.S. 58-63-25. The Commissioner shall, after such hearing, make a report in writing in which he shall state his findings as to the facts, and he shall serve a copy thereof upon such person.

(b) If such report charges a violation of this Article and if such method of competition, act or practice has not been discontinued, the Commissioner may, through the Attorney General of this State, at any time after 10 days after the service of such report cause a petition to be filed in the superior court of this State of the county wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite. To the extent that the order of the Commissioner is affirmed, the court shall thereupon issue its order commanding obedience to the terms of such order of the Commissioner.

(c) A transcript of the proceedings before the Commissioner including all evidence taken and the report and findings shall be filed with such petition. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commissioner, the court may order such additional evidence to be taken before the Commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commissioner may modify his findings of fact or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.

(d) If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, that the proceeding by the Commissioner with respect thereto is to the interest of the public and that the findings of the Commissioner are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice. (1949, c. 1112.)

§ 58-63-45. Judicial review by intervenor.

If the report of the Commissioner does not charge a violation of this Article, then any intervenor in the proceedings may within 10 days after the service of such report, cause a notice of appeal to be filed in the Superior Court of Wake County for a review of such report. Upon such review, the court shall have authority to issue appropriate orders and decrees in connection therewith, including, if the court finds that it is to the interest of the public, orders enjoining and restraining the continuance of any method of competition, act or practice which it finds, notwithstanding such report of the Commissioner, constitutes a violation of this Article. (1949, c. 1112.)

§ 58-63-50. Penalty.

Any person who willfully violates a cease and desist order of the Commissioner under G.S. 58-63-32, after it has become final, and while the order is in effect, shall forfeit and pay to the Commissioner the sum of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each violation, which if not paid shall be recovered in a civil action instituted in the name of the Commissioner in the Superior Court of Wake County. The clear proceeds of forfeitures provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in

accordance with G.S. 115C-457.2. (1949, c. 1112; 1985, c. 666, s. 21; 1991, c. 720, ss. 33, 63; 1995, c. 193, s. 51; 1998-215, s. 88.)

§ 58-63-55. Provisions of Article additional to existing law.

The powers vested in the Commissioner by this Article shall be additional to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive. (1949, c. 1112.)

§ 58-63-60. Immunity from prosecution.

If any person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, he must nonetheless comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence pursuant thereto, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding, provided, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him while so testifying and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury, nor shall he be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the insurance law of this State. Any such individual may execute, acknowledge and file in the office of the Commissioner a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privilege on account of any testimony he may so give or evidence so produced. (1949, c. 1112.)

§ 58-63-65. Rulemaking authority.

The Commissioner may adopt rules to carry out the provisions of this Article, including rules that define unfair methods of competition or unfair or deceptive acts or practices in the business of insurance, in addition to those defined in G.S. 58-63-15 and determined under G.S. 58-63-40. (1993, c. 409, s. 15; 2025-25, s. 29(6).)

§§ 58-63-66 through 58-63-69. Reserved for future codification purposes.

§ 58-63-70. Health care service discount practices by insurers and service corporations.

(a) It is an unfair trade practice for any insurer or service corporation subject to this Chapter to make an intentional misrepresentation to a health care provider to the effect that the insurer or service corporation is entitled to a certain preferred provider or other discount off the fees charged for medical services, procedures, or supplies provided by the health care provider, when the insurer or service corporation is not entitled to any discount or is entitled to a lesser discount from the provider on those fees.

(b) It is an unfair trade practice for any person with knowledge that an insurer or service corporation intends to make the type of misrepresentation prohibited in subsection (a) of this section to provide substantial assistance to that insurer or service corporation in accomplishing that misrepresentation. (1997-519, s. 3.2.)

§ 58-63-75. Senior-specific certifications and professional designations; rules.

The Commissioner may adopt rules to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale, or purchase of, or advice made in connection with, a life insurance or annuity product. These rules shall be substantially similar to the NAIC Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, as amended. The Commissioner may adopt, amend, or repeal provisions of these rules under G.S. 150B-21.1 in order to keep these rules current with the NAIC model rule. (2009-382, s. 15.)