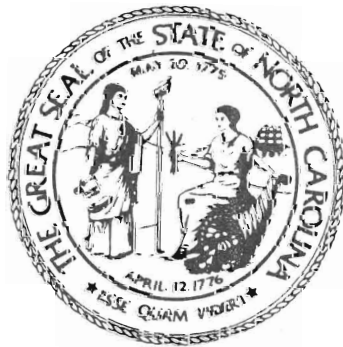


NORTH CAROLINA INSURANCE REGULATION STUDY COMMISSION



**REPORT TO THE
1985 GENERAL ASSEMBLY
OF NORTH CAROLINA
1986 SESSION**

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STATE OF NORTH CAROLINA
NORTH CAROLINA INSURANCE REGULATION
STUDY COMMISSION
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SENATOR JOSEPH E. JOHNSON
CO-CHAIRMAN

REPRESENTATIVE MARTIN L. NESBITT
CO-CHAIRMAN

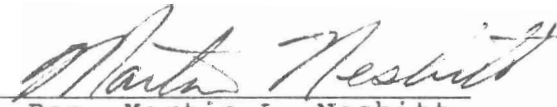
June 4, 1986

TO THE MEMBERS OF THE 1985 GENERAL ASSEMBLY (1986 Session):

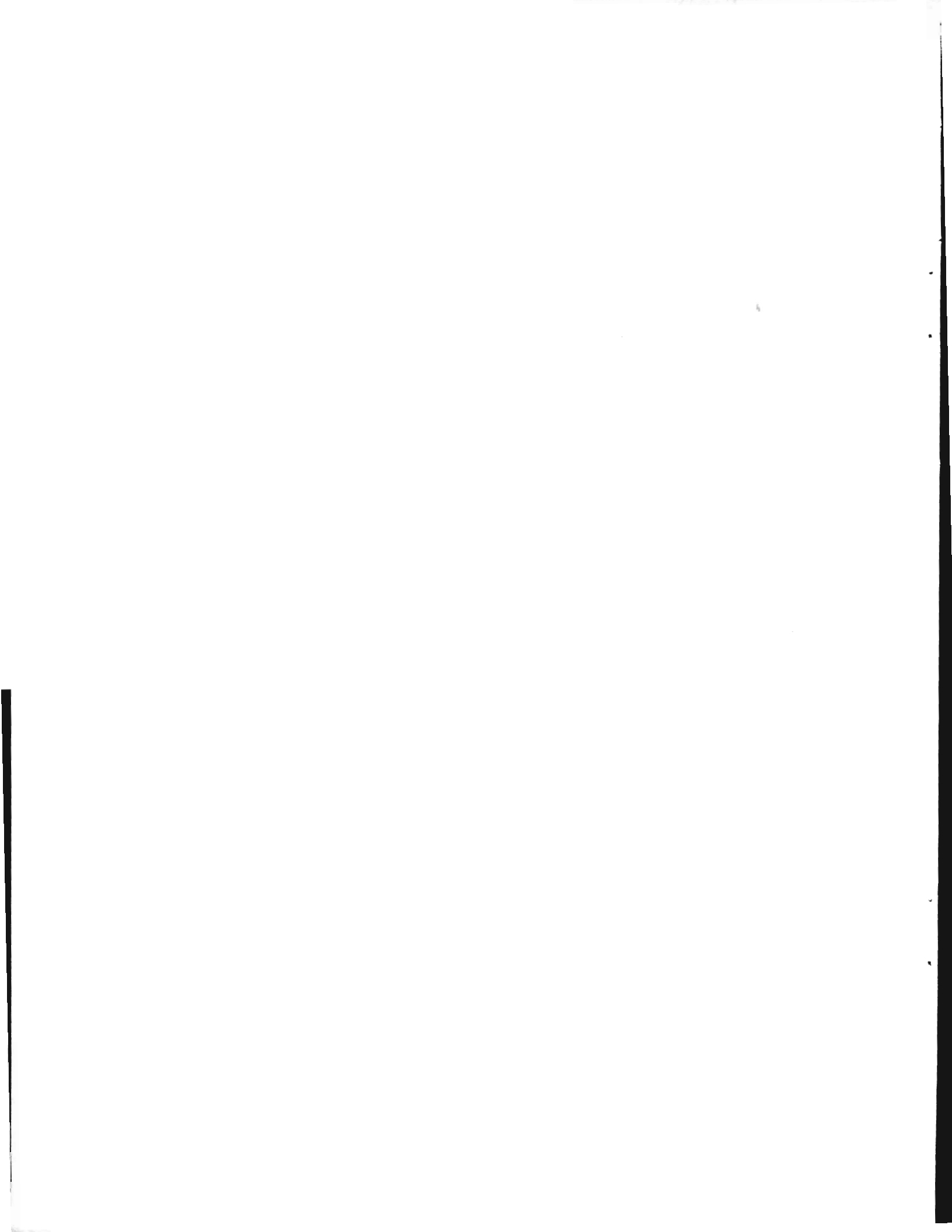
The North Carolina Insurance Regulation Study Commission herewith reports to the 1985 General Assembly (1986 Session) on the matter of the Insurance laws of the State of North Carolina. This report is made pursuant to Chapter 792 of the 1985 Session Laws, and pursuant to Chapter 6 of the 1986 Extra Session.

This is an interim report. It deals with motor vehicle insurance generally, and specifically addresses some of the problems related to the Safe Driver Insurance Plan (SDIP) insurance points system. This report also contains recommendations for certain substantive, and technical changes in the insurance laws of the State. The Commission transmits the matters contained herein for your consideration.


Sen. Joseph E. Johnson,


Rep. Martin L. Nesbitt

Cochairmen
Insurance Regulation Study Commission



INSURANCE REGULATION STUDY COMMISSION

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Cochairman

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Sen. A. D. Guy

Sen. Thomas F. Taft

Mr. Bradley R. Lamb

Mr. Thomas S. Marshall

Rep. Martin L. Nesbitt
Cochairman

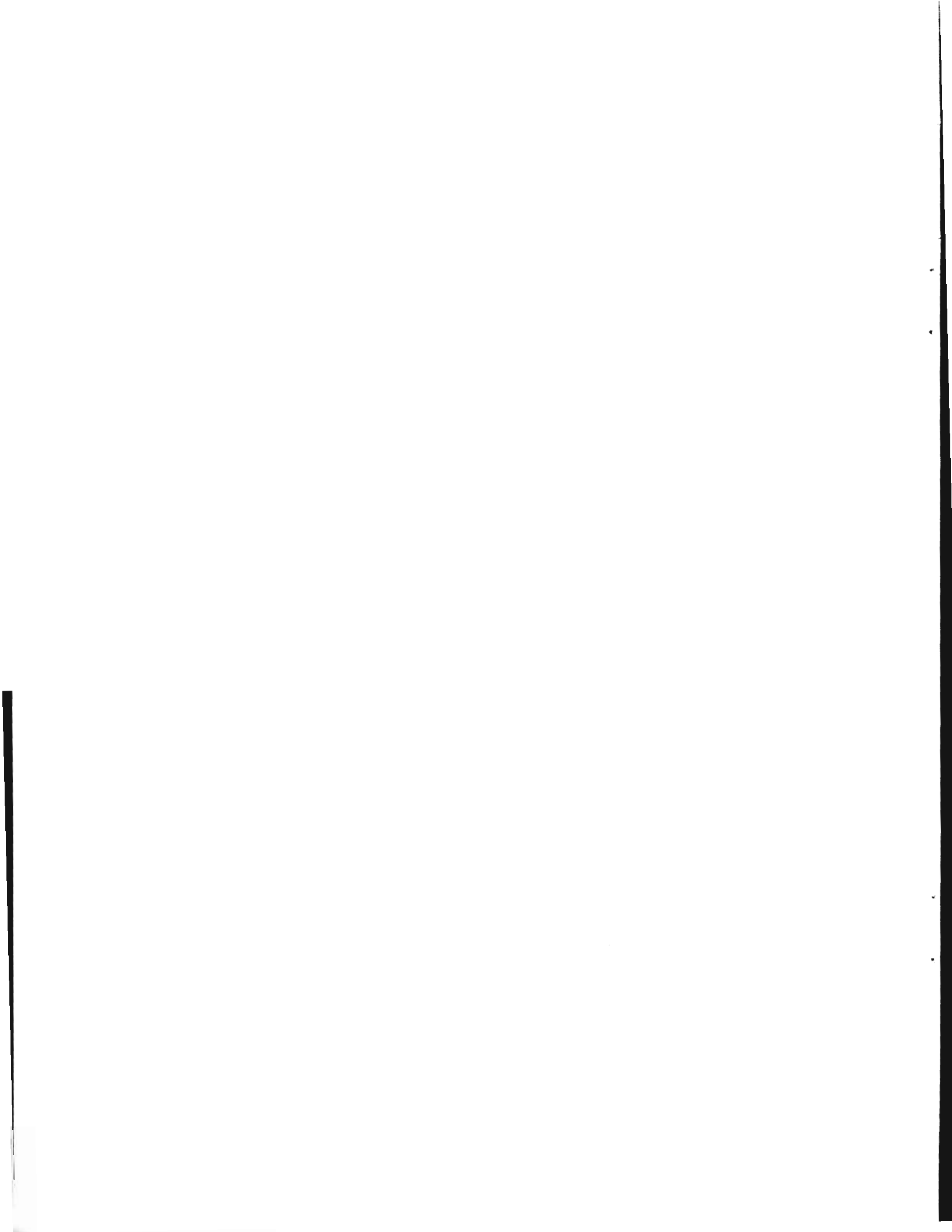
Rep. John C. Hasty

Rep. George M. Holmes

Rep. Harry E. Payne, Jr.

Mr. David B. Plyler

Mr. Don Zimmerman



LEGISLATIVE BACKGROUND

The Insurance Regulation Study Commission is an independent commission of the General Assembly created by Part VI of Chapter 792 of the 1985 Session Laws. The charge of the Commission is set forth in Sec. 7.3 of Chapter 792 which reads:

Sec. 7.3. The Commission is authorized to review and analyze:

(a) The various systems or methods of property and liability insurance regulation in this State and in other states, including the licensing of insurers, agents, brokers, and adjusters; regulation of premium rates, policy forms, and classifications; financial regulation of insurers; residual and substandard insurance markets; and the impact on the property and liability insurance market caused by the integration of the components of the financial services industry: banking, securities, and insurance.

(b) The form, style, and intelligibility of the North Carolina General Statutes concerning property and liability insurance and the manners in which such statutes can be rewritten and recodified to improve them in this regard.

The Commission was originally required to report on the convening date of the 1987 General Assembly; but was authorized, by Chapter 6 of the 1986 Extra Session to make an interim report to the 1985 General Assembly (2nd Session 1986).



PROCEEDINGS

The Commission held five meetings since its creation. At its initial meeting the Commission decided that it would proceed systematically in order to assure that all matters within its charge are thoroughly studied. In view of the broad scope of the matters to be studied, it is believed that the Commission's work will extend beyond the 1985 and 1987 Sessions of the General Assembly. The first order of business will be to focus on the most critical areas of insurance law; and afterwards address the less crucial areas. The Commission made every attempt to avoid duplicating the efforts of other commissions (viz., the Liability and Property Insurance Markets Study Commission, and the Medical Malpractice Commission) charged with studying other aspects of the insurance laws of the State. The Insurance Regulations Study Commission decided to concentrate on another critical area of law--the State's motor vehicle insurance laws. It decided specifically to address the problems related to the Safe Driver Insurance Plan (SDIP) insurance points system. This report, therefore, is devoted to that topic.

FINDINGS

The Commission found that there is a crisis in motor vehicle insurance stemming from the high premiums which policy holders must pay. The Commission believes that the problems

in this area of insurance law are sufficiently acute that they require the immediate attention of the General Assembly. The rates are excessive for some individuals, while for the others the rates are inadequate. The Commission believes that this has occurred because the Safe Driver Insurance Plan is apparently not operating as intended by the General Assembly. Some North Carolina licensed drivers escape the assessment of insurance points under the Safe Driver Insurance Plan (SDIP); while others who are assessed high numbers of SDIP points pay excessively high surcharges for those points.

RECOMMENDATIONS

In order to alleviate some of the motor vehicle insurance problems immediately, the Commission recommends that the 1985 General Assembly consider the enactment of legislation to revise the rating and classification plans, and ratemaking procedures for private passenger motor vehicle insurance. The recommended legislation, "AN ACT TO REVISE THE RATING AND CLASSIFICATION PLANS RATEMAKING FOR NONFLEET PRIVATE PASSENGER MOTOR VEHICLE INSURANCE,..." is attached hereto, and made a part of this report.

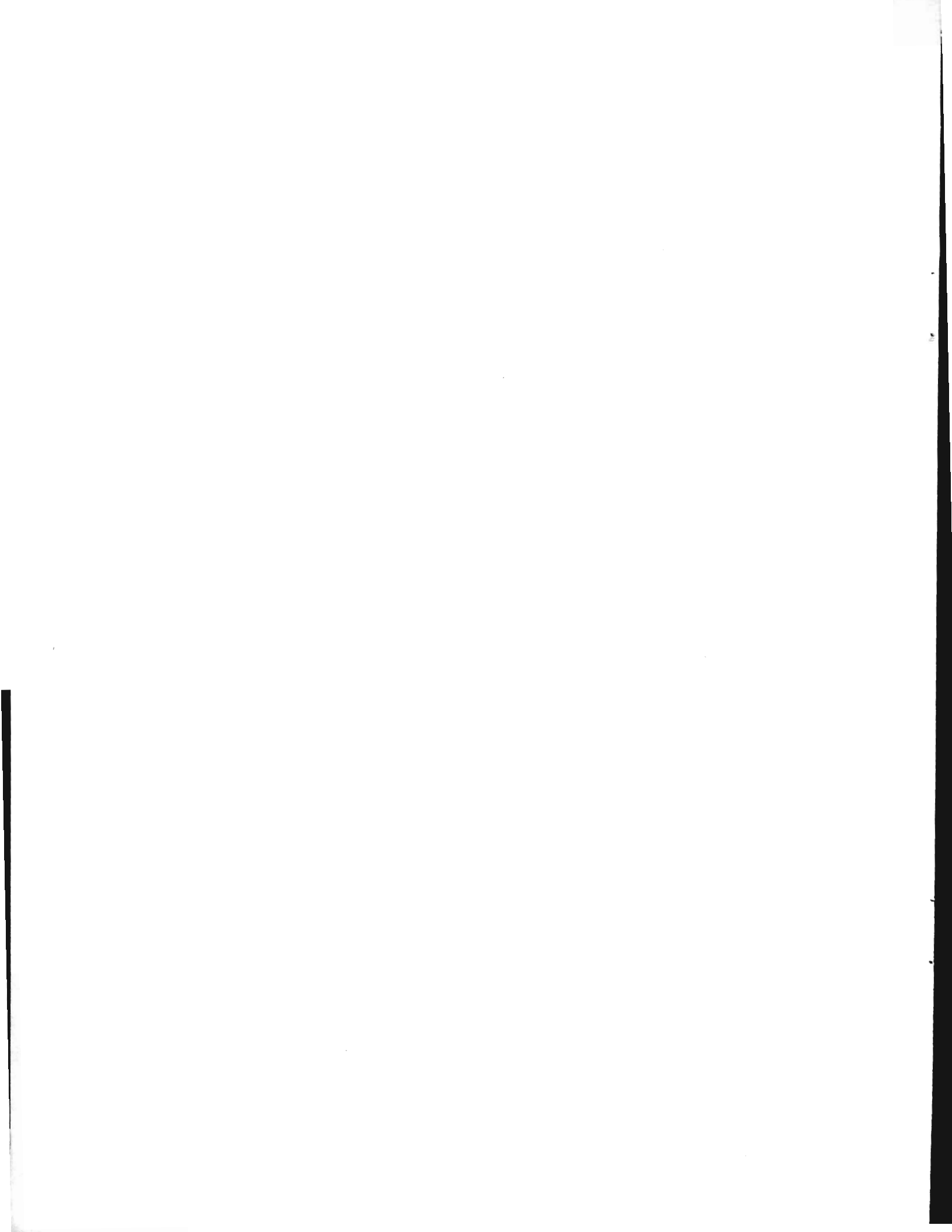
The Commissioner of Insurance brought to the attention of the Commission some substantive and technical matters in the insurance law having some relation to the motor vehicle insurance laws which the Commissioner believes require the

immediate attention of the General Assembly. In response to the concerns raised by the Commissioner of Insurance, the Commission recommends that the General Assembly consider the three additional proposed bills attached to this report. The proposed bills are entitled as follows:

1. AN ACT TO MAKE SUBSTANTIVE CHANGES IN THE INSURANCE LAWS AS RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.
2. AN ACT TO MAKE SUBSTANTIVE CHANGES IN LAWS REGARDING INSURANCE TAXES AND FEES AS RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.
3. AN ACT TO MAKE TECHNICAL CHANGES IN THE INSURANCE LAWS AS RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.

The Commission further recommends:

- (1) that all other matters that are within the scope of its charge be retained for further study, and
- (2) that the 1985 General Assembly authorize the Commission to continue its work, and report to the 1987 General Assembly.



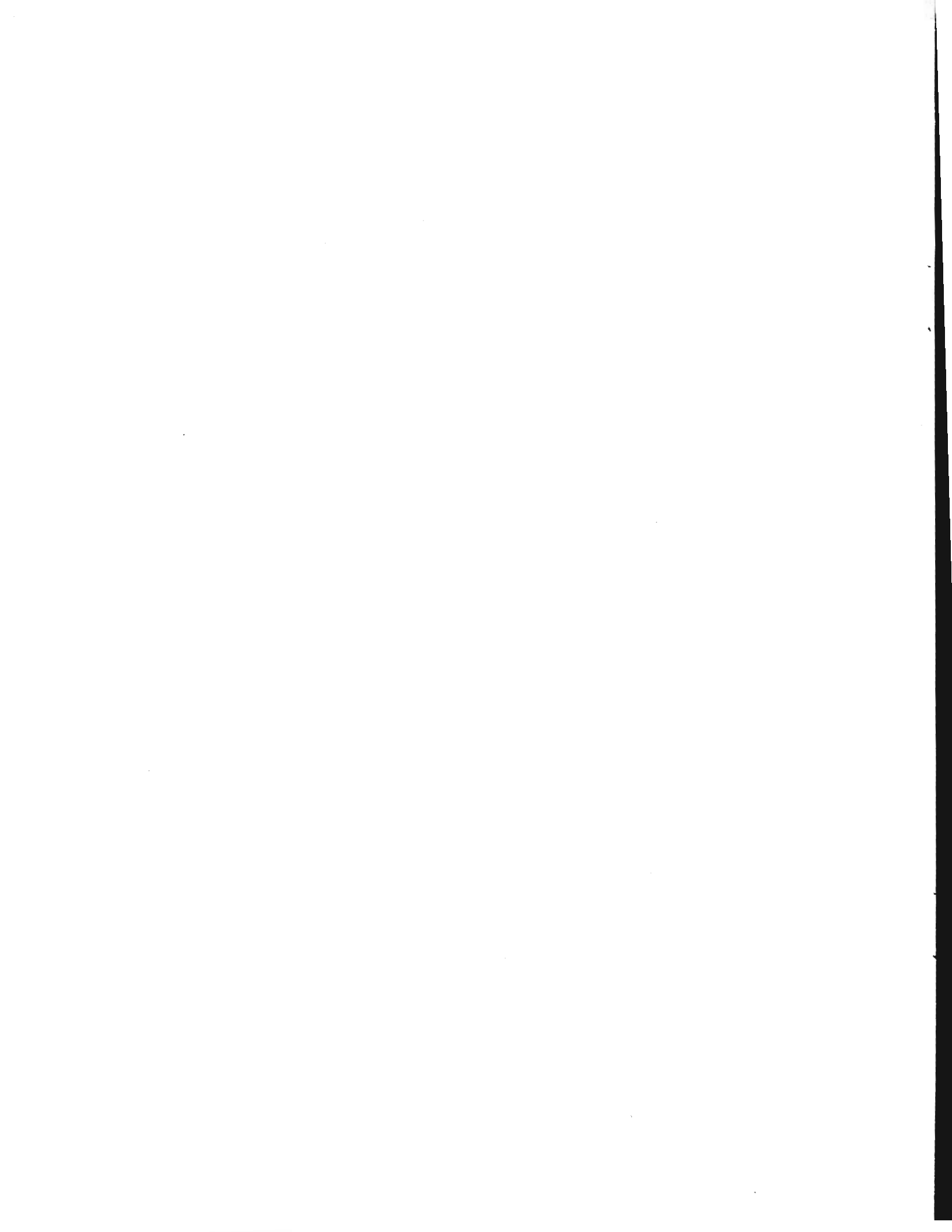
RECOMMENDED LEGISLATION

#1. AN ACT TO REVISE THE RATE AND CLASSIFICATION PLANS AND RATED MAKING FOR NONFLEET PRIVATE PASSENGER MOTOR VEHICLE INSURANCE AS RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.

#2. AN ACT TO MAKE SUBSTANTIVE CHANGES IN THE INSURANCE LAW AS RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.

#3. AN ACT TO MAKE SUBSTANTIVE CHANGES IN THE LAWS REGARDING INSURANCE TAXES AND FEES AS RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.

#4. AN ACT TO MAKE TECHNICAL CHANGES IN THE INSURANCE LAWS AS RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.



INTRODUCED BY:

Referred to:

1

A BILL TO BE ENTITLED

2

AN ACT TO REVISE THE RATE AND CLASSIFICATION PLANS AND

3

RATEMAKING FOR NONFLEET PRIVATE PASSENGER MOTOR VEHICLE

4

INSURANCE AS RECOMMENDED BY THE INSURANCE REGULATION STUDY

5

COMMISSION.

6

The General Assembly of North Carolina enacts:

7

Section 1. Rate Classification, Safe Driver Insur-

8

ance Plan, and DMV Records.

9

G.S. 58-30.4 is rewritten to read:

10

"G.S. 58-30.4. Revised classifications and rates; safe

11

driver insurance plan.--(a) The North Carolina Rate Bureau

12

shall promulgate a revised basic classification plan and a

13

revised subclassification plan to be known as the "Safe Driver

14

Insurance Plan" for coverages on private passenger (nonfleet)

15

motor vehicles in this State affected by the provisions of G.S.

16

58-30.3. The revised basic classification plan shall provide

17

for the following four basic classifications: (i) pleasure use

18

only; (ii) pleasure use except for driving to and from work;

19

(iii) business use; and (iv) farm use. The Safe Driver Insur-

20

ance Plan shall appropriately reflect the statistical driving

21

experience and exposure of insureds in each of the four basic

22

classifications provided by this section, except that no Safe

23

Driver Insurance Plan shall be promulgated based, in whole or

24

1 in part, directly or indirectly, upon the age or sex of the
2 person insured. The Safe Driver Insurance Plan may provide for
3 premium surcharges for insureds having less than two years'
4 driving experience as licensed drivers, and shall provide for
5 premium surcharges based upon a points system for drivers
6 having a driving record consisting of a record of chargeable
7 accidents, or convictions for moving traffic violations, or any
8 combination thereof. The Safe Driver Insurance Plan shall
9 become effective January 1, 1984. It shall provide that in a
10 policy insuring more than one motor vehicle, premium sur-
11 charges, based upon the driving record of the insured who has
12 chargeable accidents and convictions for moving traffic vio-
13 lations, for chargeable accidents and moving traffic violations
14 shall be distributed equally among the motor vehicles so
15 insured. The classification plan, and the Safe Driver Insur-
16 ance Plan promulgated by the Bureau shall be subject to the
17 filing, hearing, disapproval, review and appeal procedures
18 before the Commissioner and the courts as provided for rates
19 and classification plans in G.S. 58-124.20, 58-124.21, and
20 58-124.22.

21 (b) Whenever a policy is surcharged due to an accumu-
22 lation of points under the Safe Driver Insurance Plan, the
23 insurer shall notify the named insured of this fact in the form
24 prescribed by rules adopted by the Bureau and approved by the
25 Commissioner. The notice shall be mailed to the insured before
26 or at the time of the billing for additional premium; and it
27 shall inform the named insured that:

28 (1) the premium has increased because of the application

1 of the Plan; and

2 (2) upon receipt of the written request, the insured will
3 be promptly furnished a statement of the amount of
4 the increased premium attributable to the surcharge.

5 The notice and statement are privileged, and may not constitute
6 grounds for a cause of action for defamation against the
7 insurer, its representatives, or any person who furnishes
8 information upon which the surcharge is based.

9 (c) In order to assure that under the Safe Driver Insur-
10 ance Plan proper consideration is given to convictions for
11 moving traffic violations, the Bureau shall obtain from the
12 Division of Motor Vehicles records of convictions for moving
13 traffic violations. The Bureau's member companies shall apply
14 the records in accordance with rules to be established by the
15 Bureau.

16 (d) The Bureau may establish rules, subject to the
17 approval of the Commissioner, providing for the exchange of
18 information among its members about chargeable accidents and
19 convictions for moving traffic violations of persons to be
20 insured under nonfleet private passenger motor vehicle insur-
21 ance policies. Neither the Bureau, any employee of the Bureau,
22 nor any company or individual serving on any committee of the
23 Bureau shall be liable for defamation arising out of the
24 adoption, implementation, or enforcement of any rule estab-
25 lished pursuant to this subsection. No insurer or individual
26 requesting, furnishing, or otherwise using any information that
27 the insurer or individual reasonably believes to be for

28

1 purposes authorized by this section shall be liable for
2 defamation on account of the requesting, furnishing, or use.

3 (e) If an applicant for the issuance or renewal of a
4 nonfleet private passenger motor vehicle insurance policy
5 knowingly makes a material misrepresentation of the years of
6 driving experience or the driving record of any named insured
7 or of any other operator who resides in the same household and
8 who customarily operates a motor vehicle to be insured under
9 the policy, the insurer may:

10 (1) Cancel or refuse to renew the policy;

11 (2) Surcharge the policy in accordance with rules to be
12 adopted by the Bureau and approved by the Commissioner;
13 or

14 (3) Recover from the applicant the appropriate amount of
15 premium or surcharge that would have been collected by
16 the insurer had the applicant furnished the correct
17 information."

18 Sec. 2. Special reports from rating advisory and joint
19 underwriting organizations, Rate Bureau, and Reinsurance
20 Facility.

21 G.S. 58-25.1 is amended by inserting between the words
22 "insurer" and "or its officers" the following: ", rating
23 organization, advisory organization, joint underwriting or
24 joint reinsurance organization, or the North Carolina Rate
25 Bureau or Motor Vehicle Reinsurance Facility,".

26 Sec. 3. Section 1 of this act shall become effective
27 October 1, 1986. Sections 2 and 3 of this act are effective
28 upon ratification.

INTRODUCED BY:

Referred to:

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A BILL TO BE ENTITLED

AN ACT TO MAKE SUBSTANTIVE CHANGES IN THE INSURANCE LAW AS
RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. General Statute Chapter 97 is amended by
adding a new Article to read:

"Article 4.

"North Carolina Self-Insurance Guaranty Association.

"§97-130. Definitions.-- As used in this Article:

- (1) 'Association' means the North Carolina Self-Insurance Guaranty Association established by this G.S. 97-131.
- (2) 'Board' means the Board of Directors of the Association established by G.S. 97-132.
- (3) 'Commissioner' means the North Carolina Commissioner of Insurance.
- (4) 'Covered claim' means an unpaid claim against an insolvent self-insurer that relates to an injury that occurs while the self-insurer is a member of the Association and that is compensable under this Chapter.
- (5) 'Fund' means the North Carolina Self-Insurance Guaranty Fund established by G.S. 97-133.

1 (6) 'Plan' means the Plan of Operation authorized by G.S.
2 97-134.

3 "97-131. Creation.-- (a) There is created a non-profit
4 unincorporated legal entity to be known as the North Carolina
5 Self-Insurance Guaranty Association. The Association is to
6 provide mechanisms for the payment of covered claims under
7 self-insurance coverage, to avoid excessive delay in payment,
8 to avoid financial loss to claimants because of the insolvency
9 of a self-insurer, and to assist, when called upon to do so by
10 the Commissioner, in the detection of self-insurer
11 insolvencies. It is declared that the Association is an
12 instrumentality of the State, provided that the debts and
13 liabilities of the Association shall not constitute debts and
14 liabilities of the State.

15 (b) All individual and group self-insurers shall be and
16 remain members of the Association as a condition of authority
17 to self-insure in this State under G.S. 97-93. The Association
18 shall perform its functions under a Plan of Operation
19 established or amended, or both, and approved by the
20 Commissioner, and shall exercise its powers through the Board.

21 (1) A self-insurer shall be deemed to be a member of the
22 Association for purposes of another self-insurer's
23 insolvency, as defined in G.S. 97-135, when:

24 (a) The self-insurer is a member of the Association
25 when an insolvency occurs, or

26 (b) The self-insurer has been a member of the
27 Association at some point in time during the
28

1 12-month period immediately preceeding the
2 insolvency in question.

3 (2) A self-insurer shall be deemed to be a member of the
4 Association for purposes of its own insolvency when:

5 (a) The self-insurer is a member of the Association
6 when the insolvency occurs, but claims relating
7 to a compensable event that occurred prior to
8 the date the self-insurer joined the Association
9 are not included hereunder; or

10 (b) The self-insurer becomes insolvent after leaving
11 the Association, but claims relating to a
12 compensable event that occurred prior to the
13 date the self-insurer joined the Association are
14 not included hereunder, and claims relating to a
15 compensable event that occurred after the
16 self-insurer ceased to be an approved
17 self-insurer are not to be afforded coverage
18 hereunder.

19 (3) In determining the membership of the Association
20 pursuant to subdivisions (1) and (2) of this
21 subsection for any date after the effective date of
22 this Article, no employer or group of employers
23 claiming self-insurer status may be deemed to be a
24 member of the Association on any date after the
25 effective date of this Article, unless that employer
26 or group of employers is at that time authorized as a
27 self-insurer by the Commissioner pursuant to G.S.
28 97-93, 97-94, and 97-96.

1 "§97-132. Board of directors.-- The Board shall consist of
2 not less than nine persons serving terms as established in the
3 Plan. The members of the Board shall be selected by the member
4 self-insurers, subject to the approval of the Commissioner,
5 until the next annual meeting of the Board. If no members of
6 the Board are selected within 60 days after the effective date
7 of this Article, the Commissioner may appoint the initial
8 members of the Board. In approving selections to the Board,
9 the Commissioner shall consider, among other things, whether
10 all member self-insurers are fairly represented. Members of
11 the Board may be reimbursed from the assets of the Association
12 for expenses incurred by them as members of the Board.

13 "§97-133. Powers and duties of the Association.-- (a) The
14 Association shall:

15 (1) Obtain from each member and file with the
16 Commissioner individual reports specifying the
17 aggregate benefits each member paid during the
18 previous calendar year, and the annual standard
19 premium that would have been paid by each
20 self-insurer during the previous calendar year
21 pursuant to manual rates established by the North
22 Carolina Rate Bureau and using the experience rating
23 procedure approved by the Commissioner for that
24 self-insurer. These reports shall be due on or
25 before July 15th following the close of that calendar
26 year, except that this deadline may be extended by
27 the Commissioner for up to three additional months
28 for good cause shown.

1 (2) Assess each member of the Association as follows:

2 (a) Each self-insurer shall be annually assessed an
3 amount equal to one percent (1%) of the annual
4 standard premium that would have been paid by
5 that individual self-insurer during the prior
6 calendar year; and payment to the Association
7 shall be made no later than September 15th
8 following the close of that calendar year.

9 Where any such assessment is paid based in whole
10 or in part upon estimates of annual standard
11 premium for the prior calendar year, there shall
12 be made in the next year's assessment an
13 adjustment of the assessment of such prior year
14 based on actual audited annual standard
15 premium. Regardless of the size of the Fund,
16 during its first 12 months of membership, no
17 individual self-insurer may discount or reduce
18 this one percent (1%) assessment.

19 (b) Each member self-insurer shall be notified of
20 the assessment no later than 30 days before it
21 is due.

22 (c) If a self-insurer is a member of the Association
23 for less than a full calendar year, the annual
24 standard premium shall be adjusted by that
25 portion of the year the self-insurer is not a
26 member of the Association.

27 (d) If application of the contribution rates
28 referred to in sub-subdivisions (a) and (b) of

1 this subdivision would produce an amount in
2 excess of the limits of the Fund, an equitable
3 proration shall be made;

4 (3) Administer a fund, to be known as the North Carolina
5 Self-Insurance Guaranty Fund, which shall receive the
6 assessments required in subdivision of this
7 subsection. Once the Fund reaches one million
8 dollars (\$1,000,000), no further assessments shall be
9 made except subsequent initial assessments of new
10 member self-insurers that are required to be made in
11 subdivision (2) of this subsection. Assessments may
12 be subsequently made only to maintain the Fund at a
13 level of one million dollars (\$1,000,000). The costs
14 of administration by the Association shall be borne
15 by the Fund, and the Association is authorized to
16 secure reinsurance and bonds and to otherwise invest
17 the assets of the Fund to effectuate the purpose of
18 the Association, subject to the approval of the
19 Commissioner.

20 The Association may purchase primary excess
21 insurance from an insurer licensed by the
22 Commissioner for the appropriate lines of authority
23 to defray its exposure to loss occasioned by the
24 default of one or more of its members. Any excess
25 insurance so purchased shall be limited to coverage
26 of post-assessment liability of the Association's
27 members; and the Association shall fund any such
28 purchase by levying a special assessment on its

1 members for this purpose or by application of any
2 unencumbered funds available but that have not been
3 raised by imposition of any pre-assessment or
4 post-assessment. The Association may obtain from
5 each member any information the Association may
6 reasonably require in order to facilitate the
7 securing of this primary excess insurance. The
8 Association shall establish reasonable safeguards
9 designed to ensure that information so received is
10 used only for this purpose and is not otherwise
11 disclosed;

12 (4) Be obligated to the extent of covered claims
13 occurring prior to the determination of the
14 self-insurer's insolvency, or occurring after such
15 determination but prior to the obtaining by the
16 self-insurer of workers' compensation insurance as
17 otherwise required under this Chapter.

18 (5) After paying any claim resulting from a
19 self-insurer's insolvency, be subrogated to the
20 rights of the injured employee and dependents and be
21 entitled to enforce liability against the
22 self-insurer by any appropriate action brought in its
23 own name or in the name of the injured employee and
24 dependents;

25 (6) Assess the Fund in an amount necessary to pay:

26 (a) The obligations for the Association under this
27 Article subsequent to an insolvency;

28

- 1 (b) The expenses of handling covered claims
2 subsequent to an insolvency;
- 3 (c) The costs of examinations under subdivision (8)
4 of this subsection; and
- 5 (d) Other expenses authorized by this Article;
- 6 (7) Investigate claims brought against the Association
7 and adjust, compromise, settle, and pay covered
8 claims to the extent of the Association's obligation;
9 and deny all other claims. The Association may
10 review settlements to which the insolvent
11 self-insurer was a party to determine the extent to
12 which such settlements may be properly contested;
- 13 (8) Notify such persons as the Commissioner directs under
14 subdivision (7) of this subsection;
- 15 (9) Handle claims through its employees or through one or
16 more self-insurers or other persons designated as
17 servicing facilities. Designation of a servicing
18 facility is subject to the approval of the
19 Commissioner, but designation of a member
20 self-insurer as a servicing facility may be declined
21 by such self-insurer;
- 22 (10) Reimburse each servicing facility for obligations of
23 the Association paid by the facility and for expenses
24 incurred by the facility while handling claims on
25 behalf of the Association;
- 26 (11) Pay the other expenses of the Association authorized
27 by this section; and
- 28

1 (12) Establish in the Plan a mechanism to calculate the
2 assessments required by subdivisions (1), (2), and
3 (3) of this subsection by a simple and equitable
4 means to convert from policy or fund years that are
5 different from a calendar year.

6 (b) The Association may:

- 7 (1) Employ or retain such persons as are necessary to
8 handle claims and perform other duties of the
9 Association;
- 10 (2) Borrow funds necessary to effect the purposes of this
11 Article in accord with the Plan;
- 12 (3) Sue or be sued;
- 13 (4) Negotiate and become a party to such contracts as are
14 necessary to carry out the purpose of this section;
15 and
- 16 (5) Perform such other acts as are necessary or proper to
17 effectuate the purpose of this section.

18 (c) The following pertains to post-insolvency assessment:

- 19 (1) In the event the assets of the Fund are not
20 sufficient to pay the obligations of the Association,
21 then the Association shall make an additional
22 assessment of each self-insurer in an amount not in
23 excess of two percent (2%) each year of the annual
24 standard premium that would have been paid by that
25 self-insurer during the prior calendar year. The
26 assessments of each self-insurer shall be in the
27 proportion that the annual standard premium of the
28 self-insurer for the premium calendar year bears to

1 the annual standard premium of all member
2 self-insurers for the preceding calendar year.

3 (2) Each self-insurer shall be notified of the assessment
4 no later than 30 days before it is due.

5 (3) The Association may exempt or defer, in whole or in
6 part, the assessment of any self-insurer, if the
7 assessment would cause that member's financial
8 statement to reflect liabilities in excess of assets.

9 (4) Delinquent assessments, except as provided in
10 subdivision (3) of this subsection, shall bear
11 interest at the rate to be established by the Board,
12 but not to exceed the discount rate of the Federal
13 Reserve Bank, Richmond, Virginia, on the due date of
14 the assessment, plus four percent (4%) annually,
15 computed from the due date of the assessment.

16 (5) The Association shall establish in the Plan a
17 mechanism to calculate the assessments required by
18 subdivision (1) of this subsection by a simple and
19 equitable means to convert from policy or fund years
20 are different from a calendar year.

21 (d) No self-insurer may be assessed in any calendar year an
22 amount greater than two and one-half percent (2.5%) of the
23 annual standard premium that would have been paid by that
24 self-insurer during the prior calendar year. If the maximum
25 assessment does not provide in any one year an amount
26 sufficient to make all necessary payments, the funds available
27 shall be prorated and the unpaid portion shall be paid as soon
28 thereafter as funds become available. There shall be

1 established in the Plan a mechanism to calculate the
2 assessments required by this section by a simple and equitable
3 means to convert from policy or fund years that are different
4 from a calendar year.

5 "§97-134. Plan of Operation.-- The Plan is as follows:

6 (1) The Association shall submit to the Commissioner a
7 Plan and any amendments necessary or suitable to
8 assure the fair, reasonable, and equitable
9 administration of the Association. The Plan and any
10 amendments become effective upon approval in writing
11 by the Commissioner. If the Association fails to
12 submit a suitable Plan within 90 days after the
13 effective date of this Article, or if at any time
14 thereafter the Association fails to submit suitable
15 amendments to the plan, the Commissioner shall, after
16 notice and hearing, adopt such reasonable rules as
17 are necessary or advisable to effectuate this
18 Article. Such rules shall continue in force until
19 modified by the Commissioner or superseded by a Plan
20 submitted by the Association and approved by the
21 Commissioner.

22 (2) All member self-insurers shall comply with the Plan.

23 (3) The Plan shall:

24 (a) Establish the procedures whereby all the powers
25 and duties of the Association under G.S. 97-133
26 will be performed;

27 (b) Establish procedures for handling assets of the
28 Association;

- 1 (c) Adopt a reasonable mechanism and procedure to
2 achieve equity in assessing the funds required
3 in G.S. 97-133. Consideration shall be given to
4 adjustments for audited payroll, differential
5 effects caused by rate changes, and other
6 relevant factors;
- 7 (d) Establish the amount and method of reimbursing
8 members of the Board under G.S. 97-132.
- 9 (e) Establish procedures by which claims may be
10 filed with the Association and establish
11 acceptable forms of proof of covered claims. A
12 list of such claims shall be periodically
13 submitted to the Association;
- 14 (f) Establish regular places and times for meetings
15 of the Board;
- 16 (g) Establish procedures for records to be kept of
17 all financial transactions of the Association,
18 its agents, and the Board;
- 19 (h) Provide that any member self-insurer aggrieved
20 by any final action or decision of the
21 Association may appeal to the Commissioner
22 within 30 days after the action or decision;
- 23 (i) Establish the procedures whereby selections for
24 the Board shall be submitted to the
25 Commissioner; and
- 26 (j) Contain additional provisions necessary or
27 proper for the execution of the powers and
28 duties of the Association.

1 "§97-135. Insolvency.-- A self-insurer shall be insolvent
2 for the purposes of this Article under the following
3 circumstances:

- 4 (1) Determination of insolvency by a court of competent
5 jurisdiction; and
6 (2) Institution of bankruptcy proceedings by or regarding
7 the member self-insurer.

8 "§97-136. Powers and duties of the Commissioner.-- (a) The
9 Commissioner shall notify the Association of the existence of
10 an insolvent member self-insurer not later than 30 days after
11 he receives notice of an insolvency pursuant to the standards
12 set forth in G.S. 97-135.

13 (b) The Commissioner may:

- 14 (1) Require that the Association notify the insureds of
15 the insolvent self-insurer and any other interested
16 parties of the insolvency and of their rights under
17 this Article. Such notifications shall be by mail at
18 their last known addresses, where available; but if
19 required information for notification is not -
20 available, notice by publication in a newspaper of
21 general circulation in this State shall be
22 sufficient; and
23 (2) Revoke the designation of any servicing facility if
24 he finds claims are being handled unsatisfactorily.

25 "§97-137. Examination of the Association.-- The Association
26 shall be subject to examination and regulation by the
27 Commissioner. The Board shall submit, not later than March
28

1 30th of each year, a financial report for the preceding
2 calendar year in a form approved by the Commissioner.

3 "§97-138. [Reserved]

4 "§97-139. Immunity.-- There shall be no liability on the
5 part of and no cause of action of any nature may arise against
6 any member self-insurer, the Association, or its agents or
7 employees, the Board or its individual members, or the
8 Commissioner or his representatives for any acts or omissions
9 taken by them in the performance of their powers and duties
10 under this Article. The immunity established by this section
11 shall not extend to willful neglect or malfeasance that would
12 otherwise be actionable.

13 "§97-140. Nonduplication of recovery.-- Any person having a
14 covered claim that may be recovered under more than one
15 insurance or self-insurance guaranty association or its
16 equivalent shall seek recovery first from the association of
17 the place or residence of the claimant. Any recovery under
18 this Article shall be reduced by the amount of recovery from
19 any other insurance guaranty association or its equivalent.

20 "§97-141. Stay of proceedings.-- All proceedings under this
21 Chapter to which the insolvent insurer is a party either before
22 the Industrial Commission or a court in this State and the
23 running of all time periods against either the insolvent
24 self-insurer or the Association under this Chapter shall be
25 stayed for 60 days from the date of notice to the Association
26 of the insolvency in order to permit the Association to
27 investigate, prosecute, or defend properly any petition, claim,
28 or appeal under this Chapter, provided that the payment of

1 weekly compensation for incapacity is made whenever time
2 periods or proceedings affecting the payment of weekly
3 compensation are stayed.

4 "§97-142. Disposition of assets upon dissolution.-- In the
5 event of dissolution of the Association, all assets remaining
6 after provision for satisfaction of all outstanding claims
7 shall be distributed to the State Treasurer for establishment
8 of a reserve to satisfy potential claims against the
9 Association and, all such claims being satisfied, for inclusion
10 in the General Fund of the State."

11 Sec. 2. G.S. 58-16 is amended in the second sentence by
12 inserting "or, in the Commissioner's discretion, as often as
13 once in five years" between "three years" and "he shall".

14 Sec. 3. Article 1 of General Statute Chapter 58 is
15 amended by adding a new section to read:

16 "§58-18.1. Immunity from liability for reporting insurance
17 fraud.-- (a) For the purpose of this section, a 'fraudulent
18 insurance act' is committed by any person who, knowingly and
19 with intent to defraud, presents, causes to be presented,--or
20 prepares with knowledge or belief that it will be presented to
21 or by an insurer, purported insurer, broker, or any agent
22 thereof, any written statement as part of, or in support of, an
23 application for the issuance of, or the rating of an insurance
24 policy for commercial or personal insurance, or a claim for
25 payment or other benefit pursuant to an insurance policy for
26 commercial or personal insurance that he knows to contain
27 materially false information concerning any fact material
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1 thereto; or conceal, for the purpose of misleading, information
2 concerning any fact material thereto.

3 (b) In the absence of fraud or bad faith, no person shall be
4 subject to civil liability for libel, slander, or any other
5 related tort cause of action by virtue of filing reports,
6 without malice, or furnishing other information, without
7 malice, required by this Chapter or required by the
8 Commissioner under the authority granted in this Chapter; and
9 no civil cause of action of any nature shall arise against such
10 person (1) for any information relating to suspected fraudulent
11 insurance acts furnished to or received from the Commissioner,
12 his designee, or law enforcement officials or their agents and
13 employees; (2) for any information relating to suspected
14 fraudulent insurance acts furnished to or received from other
15 persons subject to the provisions of this Chapter; or (3) for
16 any such information furnished in reports to the Insurance
17 Fraud Bureau of The National Association of Insurance
18 Commissioners or any organization established to detect and
19 prevent fraudulent insurance acts or their agents, employees or
20 designees; nor shall the Commissioner or any employee of the
21 Insurance Frauds Bureau, acting without malice, in the absence
22 of fraud or bad faith, be subject to civil liability for libel,
23 slander, or any other related tort cause of action, and no
24 civil cause of action of any nature shall arise against such
25 person by virtue of the publication of any report or bulletin
26 related to the official activities of the Insurance Frauds
27 Bureau. Nothing in this section is intended to abrogate or
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1 modify in any way any common law or statutory privilege or
2 immunity heretofore enjoyed by any person.

3 (c) During the course of an investigation of a suspected
4 fraudulent insurance act, the Commissioner may personally or
5 through his designee request any insurer to furnish copies of
6 any information relative to that suspected act that is in the
7 insurer's possession. The insurer shall release the
8 information requested and cooperate with the Commissioner or
9 his designee pursuant to this subsection. The information
10 shall include without limitation to:

- 11 (1) Any insurance policy and application therefor
12 relevant to a suspected fraudulent insurance act
13 under investigation;
- 14 (2) policy premium payment records;
- 15 (3) history of previous loss claims made by the insured;
- 16 (4) material relating to the investigation by the insurer
17 of the suspected act, including statements of any
18 person, proof of loss, and any other relevant
19 evidence."

20 Sec. 4. G.S. 58-433(d) is rewritten to read:

21 "(d) Each surplus lines license shall be issued on
22 September 1 of each year and expire August 31 of the
23 following year unless renewed. Application for renewal
24 shall be made 30 days before the expiration date. The
25 license shall be renewed upon payment of the annual
26 license fee and compliance with the other applicable
27 provisions of this section. Any person who places surplus
28 lines insurance without a valid surplus lines license in

1 effect shall pay a penalty of one thousand dollars
2 (\$1,000) and be subject to such other penalties as
3 provided by law."

4 Sec. 5. G.S. 58-423(2) is rewritten to read:

5 "(2) The full amount or kind of insurance cannot be
6 obtained from insurers who are admitted to do business in
7 this State. Such full amount or kind of insurance may be
8 procured from eligible surplus line insurers, provided
9 that a diligent search is made among the insurers who are
10 admitted to transact and are actually writing the
11 particular kind and class of insurance in this State;
12 and".

13 Sec. 6. G.S. 58-27 is amended by inserting between
14 "shall" and "be deemed guilty" the following:

15 "be subject to suspension or revocation of his license
16 under this Chapter; and shall".

17 Sec. 7. Article 6 of General Statute Chapter 58 is
18 amended by adding two new sections to read:

19 "§58-75.1. Maintenance and removal of records and assets.--

20 (a) Every domestic insurer that has its home or principal
21 office in a location outside this State shall nevertheless
22 maintain an office or offices in this State and keep therein
23 for such period as the Commissioner may be regulation require
24 complete records of its assets, transactions, and affairs,
25 specifically including:

- 26 (1) Financial records;
27 (2) Corporate records;
28 (3) Reinsurance documents;

- 1 (4) Access to all accounting transactions and access in
- 2 this State, upon demand by the Commissioner, to all
- 3 original accounting documents;
- 4 (5) Claim files; and
- 5 (6) Payment of claims, in accordance with such methods
- 6 and systems as are customary or suitable as to the
- 7 kind or kinds of insurance transacted.

8 (b) Every domestic insurer that has its home or principal
9 office in a location outside this State shall have and maintain
10 its assets in this State, except as to:

- 11 (1) Real property and personal property appurtenant
- 12 thereto lawfully owned by the insurer and located
- 13 outside this State, and
- 14 (2) Such property of the insurer as may be customary,
- 15 necessary, and convenient to enable and facilitate
- 16 the operation of its branch offices, regional home
- 17 offices, and operations offices, located outside this
- 18 State as referred to in G.S. 58-75.2.

19 (c) The removal from this State of all or a material part
20 of the records or assets of a domestic insurer that has its
21 home or principal office outside this State except pursuant to
22 a plan of merger or consolidation approved by the Commissioner
23 under or for such reasonable purposes and periods of time as
24 may be approved by the Commissioner in writing in advance of
25 such removal, or concealment of such records or assets or
26 material part thereof from the Commissioner is prohibited. Any
27 person who, without the prior approval of the Commissioner,
28 removes or attempts to remove such records or assets or such

1 material part thereof from the office or offices in which they
2 are required to be kept and maintained under subsection (a) of
3 this section or who conceals or attempts to conceal such
4 records from the Commissioner, in violation of this subsection,
5 shall be guilty of a Class J felony. Upon any removal or
6 attempted removal of such records or assets or upon retention
7 of such records or assets or material part thereof outside this
8 State, beyond the period therefor specified in the consent of
9 the Commissioner under which consent the records were so
10 removed thereat, or upon concealment of or attempt to conceal
11 records or assets in violation of this section, the
12 Commissioner may institute delinquency proceedings against the
13 insurer pursuant to the provisions of Article 17A of this
14 Chapter.

15 (d) This section is subject to the exceptions provided for
16 in G.S. 58-75.2.

17 "§58-75.2. Exceptions to requirements of G.S. 58-75.1.--
18 The provisions of G.S. 58-75.1 shall not be deemed to prohibit
19 or prevent an insurer from:

- 20 (1) Establishing and maintaining branch offices or
21 regional home offices in other states where necessary
22 or convenient to the transaction of its business and
23 keeping therein the detailed records and assets
24 customary and reasonably necessary for the servicing
25 of its insurance in force and affairs in the
26 territory served by such an office, as long as such
27 records and assets are made readily available at such
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1 office for examination by the Commissioner at his
2 request.

3 (2) Having, depositing, or transmitting funds and assets
4 of the insurer in or to jurisdictions outside this
5 State as required by other jurisdictions as a
6 condition of transacting insurance in such
7 jurisdictions reasonably and customarily required in
8 the regular course of its business.

9 (3) Establishing and maintaining its principal operations
10 offices, its usual operations records, and such of
11 its assets as may be necessary or convenient for the
12 purpose, in another state in which the insurer is
13 authorized to transact insurance in order that
14 general administration of its affairs may be combined
15 with that of an affiliated insurer or insurers, but
16 subject to the following conditions:

17 (a) That the Commissioner consents in writing to
18 such removal of offices, records, and assets
19 from this State upon evidence satisfactory to
20 him that the same will facilitate and make more
21 economical the operations of the insurer, and
22 will not unreasonably diminish the service or
23 protection thereafter to be given the insurer's
24 policyholders in this State and elsewhere;

25 (b) That the insurer will continue to maintain in
26 this State its principal corporate office or
27 place of business, and maintain therein
28 available to the inspection of the Commissioner

1 complete records of its corporate proceedings
2 and a copy of each financial statement of the
3 insurer current within the preceding five years,
4 including a copy of each interim financial
5 statement prepared for the information of the
6 insurer's officers or directors;

7 (c) That, upon the written request of the
8 Commissioner, the insurer will with reasonable
9 promptness produce at its principal corporate
10 offices in this State for examination or for
11 subpoena, its records or copies thereof relative
12 to a particular transaction or transactions of
13 the insurer as designated by the Commissioner in
14 his request; and

15 (d) That if at any time the Commissioner finds that
16 the conditions justifying the maintenance of
17 such offices, records, and assets outside of
18 this State no longer exist, or that the insurer
19 has willfully and knowingly violated any of the
20 conditions stated in sub-subdivisions (b) and
21 (c), the Commissioner may order the return of
22 such offices, records, and assets to this State
23 within such reasonable time, not less than six
24 months, as may be specified in the order; and
25 that for failure to comply with such order, as
26 thereafter modified or extended, if any, the
27 Commissioner shall suspend or revoke the
28 insurer's certificate of authority.

1 (4) Placing its investment assets in one or more
2 custodial accounts inside or outside of this State
3 with banks, trust companies, or other similar
4 institutions pursuant to custodial agreements
5 approved by the Commissioner.

6 (5) Permitting policyholder and certificateholder records
7 and claims and other information to be kept and
8 maintained by agents, general agents, third-party
9 administrators, creditors, employers, associations,
10 and others in the ordinary course of business in a
11 manner customary or suitable to the kind or kinds of
12 insurance transacted; provided, however, that the
13 insurer shall, upon reasonable notice, make available
14 to the Commissioner or his designee any records or
15 other information permitted by this subsection to be
16 maintained outside this State."

17 Sec. 8. General Statute Chapter 58 is amended by adding a
18 new Article 40 to read:

19 "Article 40.

20 "Product Liability Risk Retention Groups.

21 "§58-505. Purpose.--The purpose of this Article is to
22 regulate the formation and operation of risk retention groups
23 in this State formed under the provisions of the federal
24 Product Liability Risk Retention Act of 1981 (Public Law 97-45)
25 and to protect the public by the appropriate regulation of
26 these risk retention groups.

27 "§58-506. Definitions.--In this Article:

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- 1 (1) 'Another state' means the District of Columbia or any
2 state of the United States.
- 3 (2) 'Completed operations liability' means liability,
4 including liability for activities that are completed
5 or abandoned before the date of the occurrence giving
6 rise to the liability, arising out of the
7 installation, maintenance, or repair of any product
8 at a site that is not owned or controlled by:
9 (a) a person who performs that work; or
10 (b) a person who hires an independent contractor to
11 perform that work.
- 12 (3) 'Insurance' means primary insurance, excess
13 insurance, reinsurance, surplus lines insurance, and
14 any other arrangement for shifting or distributing
15 risk that is determined to be insurance under the law
16 of this State.
- 17 (4) 'Insurance regulator of another state' includes the
18 commissioner, director, or superintendent of
19 insurance in another state.
- 20 (5) 'Product liability' means the liability for personal
21 injury or property damage that arises from the
22 manufacture, design, import, distribution, packaging,
23 labeling, lease, or sale of a product, as defined by
24 the law of this State.
- 25 (6) 'Risk retention group' means a corporation or other
26 limited liability association taxable as a
27 corporation or as an insurance company formed under
28 this Article:

1 (a) that is organized for the primary purpose of
2 assuming and spreading the product liability or
3 completed operations liability risk exposure of
4 its members;

5 (b) whose primary activity consists of assuming and
6 spreading all or any part of the product
7 liability or completed operations liability risk
8 exposure of its group members; and

9 (c) that is composed of members each of whose
10 principal activity consists of the manufacture,
11 design, import, distribution, packaging,
12 labeling, lease, or sale of a product.

13 (7) 'Service provider' means a person providing
14 insurance-related services or management services to
15 or for a risk retention group, including an agent,
16 broker, claims appraiser or adjuster, insurer,
17 actuary, or financial or management consultant.

18 "§58-507. Risk retention groups chartered in this
19 State.--(a) A person may not engage in business as a risk
20 retention group unless the person has complied with this
21 Article.

22 (b) Except as required by this Article, a risk retention
23 group seeking to be chartered in this State must be chartered
24 and licensed as an insurance company authorized by Chapter and
25 must comply with all of the laws, rules, and requirements
26 applicable to insurers chartered and licensed under this
27 Chapter.

1 "§58-508. Risk retention groups not chartered in this
2 State.--(a) A risk retention group chartered in another state,
3 Bermuda, or the Cayman Islands and seeking to do business as a
4 risk retention group in this State must:

- 5 (1) register with the Commissioner;
- 6 (2) designate the Commissioner as its agent for service
7 of process and receipt of legal documents;
- 8 (3) file with the Commissioner not later than March 1 of
9 each year its annual statement as filed with the
10 insurance regulator of another state in which it is
11 chartered;
- 12 (4) file with the Commissioner a copy of the last
13 examination, if any, made of the risk retention
14 group, certified by the insurance regulator of
15 another state in which it is chartered;
- 16 (5) file with the Commissioner not later than March 1 of
17 each year a product liability loss experience data
18 report;
- 19 (6) file with the Commissioner, not more than 30 days
20 after filing with the insurance regulator of another
21 state in which it is chartered or of another state
22 conducting any examination or investigation of its
23 financial condition or impairment, a copy of each
24 document filed by it in connection with the
25 examination or investigation; and
- 26 (7) file with the Commissioner not more than 30 days
27 after filing with the insurance regulator of another
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1 state in which it is chartered any document
2 concerning its financial condition.

3 (b) A risk retention group chartered in Bermuda or the
4 Cayman Islands, in addition to the requirements of subsection
5 (a) of this section, must:

6 (1) be chartered or licensed and authorized to do
7 business under the laws of Bermuda or the Cayman
8 Islands before January 1, 1985;

9 (2) file with the Commissioner a copy of the
10 certification filed with the insurance regulator of
11 another state, showing that it satisfies the
12 capitalization requirements of that state, together
13 with evidence that the certification has been
14 accepted by the insurance regulator of that state as
15 meeting the requirements of that state; and
16 (3) file with the insurance regulator of another state in
17 which it certifies its capitalization a waiver of any
18 secrecy laws of the jurisdiction in which it is
19 chartered.

20 "§58-509. Agents.--(a) A person who is a resident of this
21 State, who is acting or offering to act as an agent or broker
22 for a risk retention group, and whose activities include the
23 solicitation, negotiation, or placement of insurance on behalf
24 of a risk retention group operating in this State, or any of
25 its members in this State, must obtain a license as an agent or
26 broker under Article 3 of this Chapter.

27 (b) An agent or broker licensed by another state and
28 residing outside of this State may act as an agent or broker

1 for a risk retention group operating in this State, or any of
2 its members in this State, in the same manner as a resident
3 agent or broker on obtaining a license under the provisions of
4 Article 3 of this Chapter relating to licensing of nonresident
5 agents or brokers.

6 (c) An agent or broker licensed as provided by subsection
7 (a) or (b) of this section must report to the Commissioner not
8 later than March 1 of each year the activities and scope of
9 services being provided to the risk retention group.

10 (d) Before placing business with a risk retention group,
11 each agent or broker shall secure from the appropriate
12 insurance regulator a certified copy of the certificate of
13 authority verifying that the insurer is authorized in its
14 domiciliary jurisdiction to write the product liability or
15 completed operations insurance policy proposed to be procured
16 from it by the agent or broker.

17 (e) Every contract of insurance placed by an agent or
18 broker with a risk retention group chartered or licensed in
19 this State shall have printed on its face in not less than
20 10-point bold red type and in contrasting color, the following
21 statement:

22 'THE INSURANCE HEREBY EVIDENCED IS WRITTEN BY A RISK
23 RETENTION GROUP LICENSED IN THE STATE OF NORTH
24 CAROLINA, BUT IN THE EVENT OF INSOLVENCY, THIS RISK
25 RETENTION GROUP IS NOT PROTECTED BY ANY GUARANTY FUND
26 IN THE STATE OF NORTH CAROLINA.'

27 (f) Each contract of insurance placed by an agent or
28 broker with a risk retention group not chartered or licensed in

1 this State shall have printed on its face in not less than
2 10-point bold red type and in contrasting color, the following
3 statement:

4 'THE INSURANCE HEREBY EVIDENCED IS WRITTEN BY A RISK
5 RETENTION GROUP NOT LICENSED BY THE STATE OF NORTH
6 CAROLINA, NOT SUBJECT TO ITS SUPERVISION, AND NOT
7 PROTECTED, IN THE EVENT OF THE INVOLVENCY, BY ANY
8 GUARANTY OR SOLVENCY FUND IN THE STATE OF NORTH
9 CAROLINA.'

10 "§58-510. Other service providers.--(a) A service provider
11 that is not a licensed agent or broker must:

- 12 (1) register with the Commissioner; and
13 (2) report, not later than March 1 of each year in which
14 any activities or services are provided, the
15 activities and scope of services that it is providing
16 to the risk retention group.

17 (b) This section may not be construed to allow service
18 providers whose activities otherwise require licensing in
19 another state to act on behalf of a risk retention group
20 without such a license.

21 "§58-511. [Reserved]

22 "§58-512. Restrictions.--A risk retention group may not:

- 23 (1) insure risks other than those of its member
24 companies;
25 (2) provide an insurance or insurance-related service
26 other than for product liability or completed
27 operations unless the risk retention group obtains a
28 certificate of authority in this State and becomes

1 subject to all the laws and rules of this State with
2 respect to those additional lines of insurance and
3 related services; or

4 (3) exclude any person from membership in the group
5 solely to provide for members of the group a
6 competitive advantage over the person.

7 "§58-513. Exemption from compulsory associations.--A risk
8 retention group, with respect to its product liability or
9 completed operations insurance, may not be a member of or
10 contribute financially to any insurance insolvency guaranty
11 fund or similar mechanism in this State, nor may a risk
12 retention group or its insured receive any benefit from any
13 guaranty fund or similar mechanism for claims arising out of
14 the operations of the risk retention group for product
15 liability or completed operations insurance.

16 "§58-514. Countersignature not required.--A policy or
17 contract of insurance issued to a risk retention group or any
18 member of that group is not required to be countersigned as
19 provided by G.S. 58-44.

20 "§58-515. Unfair claims settlement practices.--A risk
21 retention group doing business in this State is subject to G.S.
22 58-39(5) and to Article 3A of this Chapter.

23 "§58-516. Examination for financial impairment.--(a) A risk
24 retention group chartered in this State must submit to
25 examination to determine its financial condition as considered
26 necessary by the Commissioner. The examination shall be
27 conducted in accordance with the laws, rules, and procedures

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1 applicable to insurers licensed in this State under this
2 Chapter.

3 (b) A risk retention group that is not chartered in this
4 State but is doing business in this State must submit to the
5 same type of examination as if it were chartered in this State
6 if:

7 (1) the Commissioner has reason to believe the risk
8 retention group is or may be in a hazardous financial
9 condition; and

10 (2) the insurance regulator of another state in which the
11 group is chartered has not begun or has refused to
12 initiate an examination of the group comparable in
13 scope to an examination by this State.

14 "§58-517. Delinquency proceedings.--(a) A risk retention
15 group chartered and licensed in this State is subject to
16 Article 17A of this Chapter and must comply with all lawful
17 orders issued in any delinquency proceeding commenced by the
18 Commissioner.

19 (b) A risk retention group not chartered in this State
20 but doing business in this State is subject to Article 17A of
21 this Chapter and must comply with a lawful order issued in any
22 delinquency proceeding commenced by the Commissioner relating
23 to its operations and financial affairs in this State.

24 "§58-518. Penalties.--(a) A risk retention group that is
25 chartered and licensed under G.S. 58-507 or G.S. 58-508 and
26 that violates this Article is subject to all sanctions and
27 penalties applicable to an insurer that holds a certificate of
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1 authority under this Chapter, including revocation of its
2 license and the right to do business in this State.

3 (b) A risk retention group doing business in this State
4 that is not chartered or licensed under G.S. 58-507 or G.S.
5 58-508 is considered an unauthorized insurer and is subject to
6 Articles 3B, 3C, and 17A of this Chapter."

7 Sec. 9. Article 2 of General Statutes Chapter 58 is
8 amended by adding a new section to read:

9 "§58-21.3. Insurance Regulatory Information System and
10 similar program test data not public records.-- Financial test
11 ratios and other data received or generated by the Commissioner
12 pursuant to the NAIC Insurance Regulatory Information System,
13 any successor program, or any similar program developed by the
14 Commissioner, are not public records and are not subject to
15 General Statute Chapter 132 or G.S. 58-11."

16 Sec. 10. G.S. 58-77(5)d, G.S. 58-124.28, and G.S.
17 58-131.60 are each amended by substituting "five" for "three"
18 immediately before the words "adjacent counties".

19 Sec. 11. G.S. 58-21, as found in the 1985 Supplement, is
20 amended by adding the following language:

21 "The Commissioner may require statements under this
22 section to be filed in a format that can be read by electronic
23 data processing equipment; and may require such readable
24 statements to be filed on a monthly basis."

25 Sec. 12. G.S. 58-40 is amended by adding a new subsection
26 to read:

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1 "(g) Nothing in G.S. 58-51.1 or in G.S. 58-39.4(p)
2 permits a person to simultaneously hold an agent's license and
3 an adjuster's license."

4 Sec. 13. G.S. 105-228.3 is amended by inserting "advisory
5 organization, joint underwriting or joint reinsurance
6 organization," between "ratemaking bureau or association," and
7 "or to serve".

8 Sec. 14. The section heading of G.S. 58-44.5 is rewritten
9 to read:

10 "§58-44.5. Rebates and charges in excess of premium
11 prohibited."

12 Sec. 15. G.S. 58-44.5 is amended by designating the
13 present section as subsection (a) and by adding the following
14 subsection:

15 "(b) No insurer or employee thereof, and no broker or agent
16 shall knowingly charge, demand, or receive in any manner, any
17 amount in excess of the filed and approved premium for any
18 policy or insurance, except in accordance with the applicable
19 filing approved by the Commissioner. Any fee charged by a
20 broker or agent that has for its purposes compensation for the
21 filling out and completion of applications, forms, or any other
22 necessary paperwork for the issuance or renewal of a policy of
23 insurance shall not be allowed if a commission will be paid by
24 the insurer to the agent or broker on the issuance or renewal
25 of such policy. Nothing in this section prohibits a broker or
26 agent to negotiate compensation with an applicant for the
27 issuance or renewal of a policy of insurance, in lieu of or in
28 addition to commissions on policies sold, if such agreement is

1 mutually entered into prior to services being rendered by the
2 broker or agent to or on behalf of the applicant."

3 Sec. 16. Sections 3, 4, 5, 8, and 12 of this act shall
4 become effective September 1, 1986. Sections 1 and 7 of this
5 act shall become effective October 1, 1986. The remaining
6 sections of this act are effective upon ratification.

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1 following: "the Commissioner is authorized to charge a
2 reasonable fee, in addition to the exam fee charged under G.S.
3 105-228.7, to offset the cost of the examination contract
4 authorized by this subsection;".

5 Sec. 3. Effective July 1, 1986, G.S. 58-41.1(e) is
6 amended by inserting "and in subsection (d) of this section"
7 immediately after "G.S. 105-228.7".

8 Sec. 4. G.S. 57-12 is amended by substituting "ten
9 dollars (\$10.00) for "two dollars (\$2.00). -

10 Sec. 5. G.S. 57B-13 is amended by adding the following
11 sentence:

12 "Licensing and examination fees shall be those for
13 insurance agents under G.S. 105-228.7."

14 Sec. 6. G.S. 58-433(b)(4) is amended by substituting "ten
15 thousand dollars (\$10,000)" for "fifty thousand dollars
16 (\$50,000)."

17 Sec. 7. G.S. 58-438 is rewritten to read:

18 "§58-438. Collection of tax.-- All provisions of General
19 Statute Chapter 105, not inconsistent with this Article,
20 relating to administration, auditing and making returns, the
21 imposition and collection of tax and the lien thereof,
22 assessments, refunds and penalties, shall be applicable to the
23 tax imposed by this Article; and with respect thereto, the
24 Commissioner has the same power and authority as is given to
25 the Secretary of Revenue under the provisions of General
26 Statute Chapter 105."

27 Sec. 8. Article 40 of General Statute Chapter 58 is
28 amended by adding a new section to read:

1 "§58-511. Taxes.-- (a) The tax provided by Article 8B of
2 General Statute Chapter 105 is imposed on each risk retention
3 group.

4 (b) A risk retention group is subject to taxation under and
5 is considered to be an insurer for the purpose of assessing and
6 collecting taxes as provided by Article 8B of General Statute
7 Chapter 105.

8 (c) An agent shall report and pay the taxes on the premiums
9 for risks that he has placed with or on behalf of a risk
10 retention group that is not chartered in this State as provided
11 by Article 36 of this Chapter."

12 Sec. 9. G.S. 105-228.7 is amended by:

13 (a) Adding to the schedule in the first paragraph the
14 following:

15	"Surplus lines individual	50.00
16	Surplus lines corporate	25.00
17	Persons licensed under G.S. 58-41.5 . .	25.00
18	Chapter 57 agent	10.00
19	Chapter 57B agent	10.00

20 (b) Rewriting the fourth paragraph to read:

21 "Any person not registered who is required by law or rule
22 to secure a license shall, upon application for
23 registration, pay to the Commissioner of Insurance a fee
24 of ten dollars (\$10.00). In the event additional
25 licensing for other lines of insurance is requested, a fee
26 of ten dollars (\$10.00) shall be paid upon application for
27 registration for each additional line of insurance. The
28 requirement for an examination or a registration fee does

1 not apply to agents for domestic farmers' mutual
2 assessment fire insurance companies or associations
3 specified in G.S. 105-228.4."

4 Sec. 10. Sections 4, 5, 7, 8, and 9 of this act shall
5 become effective September 1, 1986. Section 1 of this act
6 shall become effective October 1, 1986. The remaining sections
7 of this act are effective upon ratification.

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A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CHANGES IN THE INSURANCE LAW AS
RECOMMENDED BY THE INSURANCE REGULATION STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-279.21(b)(3) is amended by (a)
substituting for "increased limits coverage of twenty-five
thousand dollars (\$25,000)" the following:

"additional coverage equal to the limits of liability in
the owner's policy of liability insurance, but in no event
greater than one hundred thousand dollars (\$100,000)"

(b) substituting "three hundred thousand dollars (\$300,000)"
for "fifty thousand dollars (\$50,000)".

Sec. 2. G.S. 20-279.21(b)(3) and (b)(4) are each amended
by adding to the end of the first paragraph of G.S.
20-279.21(b)(3) and to the end of G.S. 20-279.21(b)(4) the
following sentence: "If the named insured rejects the coverage
required under this subdivision, no insurer shall be required
to offer the coverage in any renewal, reinstatement,
substitute, amended, altered, modified, transfer or replacement
policy unless the named insured makes a written request for the
coverage. Rejection of this coverage for policies issued after
the effective date of this section shall be made in writing by

1 the named insured on a form promulgated by the North Carolina
2 Rate Bureau and approved by the Commissioner of Insurance."

3 Sec. 3. G.S. 58-248.33(b)(2) is amended by inserting on
4 the line between the amounts for medical payments and uninsured
5 motorist the following:

6 "Underinsured motorist: one hundred thousand (\$100,000)
7 each person and three hundred thousand (\$300,000) each
8 accident for bodily injury liability;"

9 Sec. 4. G.S. 58-44.8 is amended by substituting "Article
10 36 of this Chapter" for "G.S. 58-53.1".

11 Sec. 5. G.S. 58-422(8) is amended by inserting between
12 "insurance" and "independently" the following: ", insurance".

13 Sec. 6. G.S. 58-424c is amended by substituting "one" for
14 "four" and "(\$1,500,000)" for "(\$4,500,000)".

15 Sec. 7. G.S. 58-131.44(a) is amended by substituting "it
16 has obtained a license from the Commissioner and" for "and
17 until".

18 Sec. 8. G.S. 58-131.45(a) is amended by inserting "obtain
19 a license from and" between "file" and "with".

20 Sec. 9. G.S. 57B-3 is amended by substituting "full
21 compliance with Article 17 of General Statute Chapter 58" for
22 "registration to do business in this State as a foreign
23 corporation under Article 17 of Chapter 58".

24 Sec. 10. G.S. 20-130.1(b) is amended by adding a new
25 subdivision (11a) to read:

26 "(11a) A vehicle operated by the State Fire Marshal or
27 his representative in the performance of his duties,
28 whether or not the State owns the vehicle;"

1 Sec. 11. G.S. 143-143.13, as found in the 1985
2 Supplement, is amended by adding a new subsection (c) to read:
3 "(c) In addition to the authority to deny, suspend, or
4 revoke a license under this Part, the Board also has the
5 authority to impose a five hundred dollar (\$500.00) civil
6 penalty upon any person violating the provisions of this
7 Part."

8 Sec. 12. G.S. 58-16.3 is amended by deleting "58-16.1"
9 from the section.

10 Sec. 13. General Statute Chapter 58 is amended by adding
11 a new §58-173.16A to Article 18A and a new §58-173.29 to
12 Article 18B, which shall each have the following section
13 heading and text:

14 "Premium taxes to be paid through association to
15 Commissioner.-- All premium taxes due on insurance written
16 under this Article shall be remitted by each insurer to
17 the association; and the association, as collecting agent
18 for its member companies, shall forward all such taxes to
19 the Commissioner as provided in Article 8B of General
20 Statute Chapter 105."

21 Sec. 14. G.S. 58-437(c) is rewritten to read:

22 "(c) The section does not apply to insurance on risks of the
23 State government, counties, municipal corporations, or any
24 agency thereof."

25 Sec. 15. G.S. 58-151 is amended by designating the
26 present section as subsection (a) and by adding a new
27 subsection (b) to read:

1 "(b) Any foreign or alien company admitted to do business
2 in this State shall have as a part of its corporate title
3 the words, 'insurance company', 'insurance association',
4 'insurance society', 'life', 'casualty' or 'indemnity';
5 and 'mutual', if the corporation is organized upon the
6 mutual principle."

7 Sec. 16. Sections 1, 2, and 3 of this act shall become
8 effective October 1, 1986. The remaining sections of this act
9 are effective upon ratification.

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