

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 512

Short Title: Insurance Omnibus Amendments.

(Public)

Sponsors: Senator Johnson of Wake.

Referred to: Insurance.

March 20, 1989

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS SUBSTANTIVE AND TECHNICAL CHANGES IN
THE INSURANCE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-113-28.3 is repealed.

Sec. 2. G.S. 58-340.38(a) reads as rewritten:

"(a) Nothing contained in this Article shall be so construed as to affect or apply to:

(1) Grand or subordinate lodges of societies, orders or associations now doing business in this State which provide benefits exclusively through local or subordinate lodges;

(2) Orders, societies or associations which admit to membership only persons engaged in one ~~or~~ or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

(3) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than ~~four hundred dollars (\$400.00)~~ five hundred dollars (\$500.00) or disability benefits of not more than three hundred fifty dollars (\$350.00) to any one person in any one year, or both; or

(4) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than ~~four hundred dollars (\$400.00)~~ five hundred dollars (\$500.00) or for

1 disability benefits of not more than three hundred fifty dollars
2 (\$350.00) to any one person in any one year, or both."

3 Sec. 3. G.S. 31A-11(a)(2) reads as rewritten:

4 "(2) In any other manner payable to the slayer by virtue of his surviving the
5 decedent, shall be paid to the person or persons who would have been
6 entitled thereto as if the slayer had predeceased the decedent. If no
7 alternate beneficiary is named, insurance and annuity proceeds shall be
8 paid into the estate of the decedent."

9 Sec. 4. G.S. 58-536(b) reads as rewritten:

10 "(b) Each application for the issuance or renewal of a certificate shall be
11 accompanied by a filing fee of twenty dollars (\$20.00) and evidence of maintenance of
12 a ~~fidelity bond of not less than one hundred thousand dollars (\$100,000) surety bond and~~
13 errors and omissions liability insurance coverage in amounts to be determined by rules
14 adopted by the Commissioner."

15 Sec. 5. G.S. 58-475(a) reads as rewritten:

16 "(a) If an insurer intends to renew a policy, the insurer must furnish to the insured
17 the renewal terms and a statement of the amount of premium due for the renewal policy
18 period. This section applies only if the insurer intends to decrease coverage, increase
19 deductibles, impose any kind of surcharge, or increase the premium rate in the renewal
20 policy."

21 Sec. 6. G.S. 58-475(c) reads as rewritten:

22 "(c) If the insurer fails to furnish the renewal terms and statement of premium due
23 in the manner required by this section, the insured may cancel the renewal policy within
24 the 30-day period following receipt of the renewal terms and statement of premium due.
25 For refund purposes, earned premium for any period of coverage shall be calculated pro
26 rata upon the premium applicable to the policy being renewed instead of the renewal
27 policy. If an insurer fails to comply with the 45-day notice requirement of this section,
28 the insured is entitled to the option of coverage under the policy being renewed and at
29 the same cost of that policy until 45 days have elapsed after the insurer has provided the
30 insured with the notice."

31 Sec. 7. G.S. 58-155.58 reads as rewritten:

32 "**§ 58-155.58. Stay of proceedings; reopening of default judgments.**

33 All proceedings in which the insolvent insurer is a party or is obligated to defend a
34 party in any court in this State shall be stayed for 60 days from the date the insolvency
35 is determined to permit proper defense by the Association of all pending causes of
36 action as to any covered claims arising from a judgment under any decision, verdict or
37 finding based on the default of the insolvent insurer or its failure to defend an insured;
38 ~~the~~ The Association either on its own behalf or on behalf of such insured may apply to
39 have such judgment, order, decision, verdict or finding set aside by the same court or
40 administrator that made such judgment, order, decision, verdict or finding and shall be
41 permitted to defend against such claim on the merits."

42 Sec. 8. G.S. 58-176(c) is amended, at the bottom of the first page of
43 photographically reproduced form, by deleting "Noon" and substituting "12:01 a.m.".

44 Sec. 9. G.S. 58-359 is amended by adding a new subsection to read:

1 "(c) Insurers that write credit property insurance shall, in filing financial
2 statements under G.S. 58-21, report credit property insurance as a separate line of
3 business on the underwriting and investment exhibit."

4 Sec. 10. G.S. 58-54 reads as rewritten:

5 **"§ 58-54. Forms to be approved by Commissioner of Insurance.**

6 It is unlawful for any insurance company doing business in this State to issue, sell,
7 or dispose of any policy, contract, or certificate, or use applications in connection
8 therewith, until the forms of the same have been submitted to and approved by the
9 Commissioner of Insurance of North Carolina, and copies filed in the Insurance
10 Department. If a policy form filing is disapproved by the Commissioner, the
11 Commissioner may return the filing to the filer. As used in this section, 'policy form'
12 includes endorsements, riders, or amendments to policies that have already been
13 approved by the Commissioner.

14 As to group and blanket accident and health insurance and group life insurance
15 policies issued and delivered to an entity outside of this State but covering persons
16 resident in this State, the group certificates to be delivered or issued for delivery in this
17 State shall be filed with and approved by the Commissioner."

18 Sec. 11. Article 26 of Chapter 58 of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 58-252.1. Meaning of terms 'accident', 'accidental injury', and 'accidental**
21 **means'.**

22 (a) This section applies to the provisions of all accident and health insurance
23 policies under this Chapter, subscriber contracts under Chapter 57 of the General
24 Statutes, preferred provider arrangements under this Chapter and under Chapter 57 of
25 the General Statutes, and health maintenance organization plans under Chapter 57B of
26 the General Statutes.

27 (b) 'Accident', 'accidental injury', and 'accidental means' shall be defined to
28 imply 'result' language and shall not include words that establish an accidental means
29 test or use words such as 'external, violent, visible wounds' or similar words of
30 description or characterization."

31 Sec. 12. Article 32 of Chapter 58 of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 58-360. Automobile physical damage insurance.**

34 (a) Single interest or dual interest physical damage insurance may be written on
35 nonfleet private passenger motor vehicles, as defined in G.S. 58-131.35A, that are used
36 as collateral for loans made under Article 15 of Chapter 53 of the General Statutes.

37 (b) Policy forms, rates, rating plans, and classifications for the insurance
38 authorized by subsection (a) of this section shall be filed with the Commissioner in
39 accordance with Articles 13C and 38 of this Chapter.

40 (c) Insurers that write the insurance authorized by subsection (a) of this section
41 shall, in filing financial statements under G.S. 58-21, report such insurance as a separate
42 line of business on the underwriting and investment exhibit."

43 Sec. 13. G.S. 58-54.24 reads as rewritten:

1 ~~"§ 58-54.24. Commissioner authorized to seek injunctions against unauthorized~~
2 ~~insurers. Cease and Disist Orders.~~

3 ~~Whenever the Commissioner, from evidence satisfactory to him, has reasonable~~
4 ~~grounds for believing that any person is violating or is about to violate the provisions of~~
5 ~~G.S. 58-54.21, he may through the Attorney General of this State cause a complaint to~~
6 ~~be filed in the Superior Court of Wake County to enjoin and restrain such person from~~
7 ~~continuing or engaging in such violations or doing any act in furtherance thereof. The~~
8 ~~court shall have jurisdiction over the proceedings and shall have the power to make and~~
9 ~~enter an appropriate order or judgment granting preliminary or final injunctive relief as~~
10 ~~in its discretion is proper. Provided, however, that the person alleged to be in violation~~
11 ~~shall have been served with process as is provided in G.S. 58-54.25.~~

12 ~~(a) Whenever the Commissioner, from evidence satisfactory to him, has~~
13 ~~reasonable grounds to believe that any person is violating or is about to violate G.S. 58-~~
14 ~~54.21, he may, after notice and opportunity for hearing, reduce his findings to writing~~
15 ~~and issue and caused to be served upon such person an order to cease and desist from~~
16 ~~violating G.S. 58-54.21.~~

17 ~~(b) Until the expiration of the time allowed under G.S. 58-54.24A(a) for filing~~
18 ~~as petition for review if no such petition has been duly filed within such time; or if a~~
19 ~~petition for review has been filed within such time, then until the transcript of the record~~
20 ~~in the proceeding has been filed in the Court, the Commissioner may at any time, upon~~
21 ~~such notice and in such manner as he considers proper, modify or set aside in whole or~~
22 ~~in part any order issued by him under this section.~~

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

29 ~~Sec. 13.1. Article 3C of Chapter 58 of the General Statutes is amended by~~
30 ~~adding the following new sections:~~

31 ~~**"§ 58-54.24A. Judicial review of cease and desist orders.**~~

32 ~~(a) Any person required by an order of the Commissioner under G.S. 58-~~
33 ~~54.24 to cease and desist may obtain a review of such order by filing in the Superior~~
34 ~~Court of Wake County, within 30 days from the date of the service of such order, a~~
35 ~~written petition praying that the order of the Commissioner be set aside. A copy of such~~
36 ~~petition shall be immediately served upon the Commissioner, and thereupon the~~
37 ~~Commissioner shall immediately certify and file in the Court a transcript of the entire~~
38 ~~record in the proceeding, including all the evidence taken and the order of the~~
39 ~~Commissioner. Upon such filing of the petition and transcript the court has jurisdiction~~
40 ~~of the proceeding and of the question determined therein, shall determine whether the~~
41 ~~filing of such petition shall operate as a stay of such order of the Commissioner, and has~~
42 ~~the power to make and enter upon the pleadings, evidence, and proceedings set forth in~~
43 ~~such transcript a decree modifying, affirming, or reversing the order of the~~

1 Commissioner, in whole or in part. The findings of the Commissioner as to the facts, if
2 supported by substantial evidence, shall be conclusive.

3 (b) To the extent that the order of the Commissioner is affirmed, the Court
4 shall thereupon issue its own order commanding obedience to the terms of such order of
5 the Commissioner. If either party applies to the Court for leave to adduce additional
6 evidence, and satisfies the Court that such additional evidence is material and that there
7 were reasonable grounds for the failure to adduce such evidence in the proceeding
8 before the Commissioner, the Court may order such additional evidence to be taken
9 before the Commissioner and to be adduced upon the hearing in such manner and upon
10 such terms and conditions as the Court considers proper. The Commissioner may
11 modify his findings of fact, or make new findings by reason of the additional evidence
12 so taken; and he shall file such modified or new findings which, if supported by
13 substantial evidence, shall be conclusive; or shall file his recommendations, if any, for
14 the modification or setting aside of his original order, with the return of such additional
15 evidence.

16 (c) A cease and desist order issued by the Commissioner under G.S. 58-54.24
17 shall become final:

18 (1) Upon the expiration of the time allowed for filing a petition for review
19 if no such petition has been duly filed within such time; except that the
20 Commissioner may thereafter modify or set aside his order to the
21 extent provided in G.S. 58-54.24(b); or

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

24 (d) No order of the Commissioner under this Article or order of a Court to
25 enforce the same shall in any way relieve or absolve any person affected by such order
26 from any liability under any other laws of this State.

27 **"§ 58-54.24B. Penalty.**

28 Any person who willfully violates a cease and desist order of the Commissioner
29 under G.S. 58-54.24, after it has become final, and while such order is in effect, shall be
30 subject to the provisions of G.S. 58-9.7.

31 **"§ 58-54.24C. Provisions of Article additional to existing law.**

32 The powers vested in the Commissioner by this Article shall be additional to any
33 other powers to enforce any penalties, fines, or forfeitures authorized by law with
34 respect to transacting the business of insurance without authority."

35 Sec. 14. Section 16 of Chapter 430 of the 1987 Session Laws reads as
36 rewritten:

37 "Sec. 16. This act is effective upon ratification ~~and Section 15 of this act shall~~
38 ~~expire on July 1, 1989.~~"

39 Sec. 15. G.S. 58-614(c)(4) and 58-614(c)(6) are repealed.

40 Sec. 16. G.S. 58-614(d) reads as rewritten:

41 "(d) A fire and casualty insurance license shall not authorize an agent ~~or broker~~ to
42 sell accident and health insurance. An agent ~~or broker~~ must hold a life, accident and
43 health insurance license or an accident and health insurance license to sell accident and
44 health insurance."

1 Sec. 17. G.S. 58-614(e) reads as rewritten:

2 "(e) A limited representative may receive qualification for one or more licenses
3 without examination for the following kinds of insurance:

4 ~~(1) Variable Contracts~~

5 ~~(2) Ocean Marine~~

6 (3) Credit Life, Accident and Health

7 (4) Credit

8 (5) Travel Accident and Baggage

9 (6) Motor Club

10 ~~(7) Dental Service "~~

11 Sec. 18. G.S. 58-614 is amended by adding a new subsection to read:

12 "(d1) A life, accident and health insurance license shall authorize an agent to sell
13 variable contracts, provided that the licensee satisfies the commissioner that he has
14 successfully completed Part I, NASD Securities Examination, or an alternative
15 examination satisfactory to the Commissioner; and that he has complied with all
16 securities registration requirements under State and federal law."

17 Sec. 19. G.S. 58-615(d)(2) reads as rewritten:

18 "(2) All individual applicants for licensing as life, accident and health
19 agents or as fire and casualty agents shall furnish evidence satisfactory
20 to the Commissioner of successful completion of at least 40 hours of
21 instruction, which shall in all cases include the general principles of
22 insurance and any other topics that the Commissioner establishes by
23 regulation; and which shall, in the case of life, accident and health
24 insurance applicants, include the principles of life, accident, and health
25 insurance and, in the case of fire and casualty insurance applicants,
26 shall include instruction in fire and casualty insurance. Any applicant
27 who submits satisfactory evidence of having successfully completed
28 an agent training course that has been approved by the Commissioner
29 and that is offered by or under the auspices of a fire and casualty or life
30 or health insurance company admitted to do business in this State or a
31 professional insurance association shall be deemed to have satisfied
32 the educational requirements of this subdivision. The requirement in
33 this subdivision for completion of 40 hours of instruction applies only
34 to applicants for life, accident and health or fire and casualty insurance
35 licenses. The provisions of this subdivision also apply to applicants
36 for accident and health insurance licenses; except that such applicants
37 shall be required to successfully complete 20 hours of instruction.
38 Such instruction shall in all cases include the general principles of
39 insurance and the principles of accident and health insurance."

40 Sec. 20. G.S. 58-461 is repealed.

41 Sec. 21. G.S. 58-42.1 reads as rewritten:

42 "**§ 58-42.1. Twisting with respect to insurance policies; penalties.**

43 No insurer shall make or issue, or cause to be issued, any written or oral statement
44 that willfully misrepresents or willfully makes an incomplete comparison as to the

1 terms, conditions, or benefits contained in any policy of insurance for the purpose of
2 inducing or attempting to induce a policyholder in any way to terminate or surrender,
3 exchange, or convert any insurance policy. Any person who violates this section is
4 subject to the provisions of G.S. 58-9.7, 58-37 through 58-39, ~~58-42,~~ and 58-44.4.”

5 Sec. 22. G.S. 58-173.8(a) reads as rewritten:

6 "(a) Any person having an insurable interest in insurable property, may, on or
7 after the effective date of the plan of operation, be entitled to apply to the Association
8 for such coverage and for an inspection of the property. Such application may be made
9 on behalf of the applicant by a broker or agent authorized by him. Each application
10 shall contain a statement as to whether or not there ~~is [are]~~ are any unpaid premiums due
11 from the applicant for essential property insurance on the property.

12 The term 'insurable interest' as used in this subsection shall be deemed to include
13 any lawful and substantial economic interest in the safety or preservation of property
14 from loss, destruction or pecuniary damage."

15 Sec. 23. G.S. 58-546(a)(11) reads as rewritten:

16 "(11) 'Intermediate care facility' shall be defined in accordance
17 with the terms of G.S. ~~131E-176(14)~~ 131E-176(14b)."

18 Sec. 24. G.S. 97-133(a)(3) reads as rewritten:

19 "(3) Administer a fund, to be known as the North Carolina Self-Insurance
20 Guaranty Fund, which shall receive the assessments required in
21 subdivision (2) of this subsection. Once the Fund reaches one million
22 dollars (\$1,000,000), no further assessments shall be made except
23 initial assessments of new member self-insurers that are required to be
24 made in subdivision (2)d. of this subsection. Assessments may be
25 subsequently made only to maintain the Fund at a level of one million
26 dollars (\$1,000,000). In its discretion, the Board may determine that
27 the assets of the Fund should be segregated, or, that a separate
28 accounting shall be made, in order to identify that portion of the Fund
29 which represents assessments paid by individual self-insurers and that
30 portion of the Fund which represents assessments paid by group self-
31 insurers. If the Board determines to segregate the Fund in this manner,
32 the Association shall thereafter pay covered claims against individual
33 member self-insurers from that portion of the Fund which represents
34 assessments against individual self-insurers and shall thereafter pay
35 covered claims against group member self-insurers from that portion
36 of the Fund which represents assessments against group self-insurers.
37 The cost of administration incurred by the Association shall be borne
38 by the Fund and the Association is authorized to secure reinsurance
39 and bonds and to otherwise invest the assets of the Fund to effectuate
40 the purpose of the Association, subject to the approval of the
41 Commissioner. All earnings from investment of Fund assets shall be
42 placed in or credited to the Fund.

43 The Association may purchase primary excess insurance from an
44 insurer licensed by the Commissioner for the appropriate lines of

1 authority to defray its exposure to loss occasioned by the default of
2 one of its members. The terms of any excess insurance so purchased
3 shall be limited to providing coverage of liabilities which exceed the
4 Fund's assets after the payment by member self-insurers of the
5 maximum post-insolvency assessment provided in ~~G.S. 197-133(e)(1)~~
6 subdivision (c)(1) of this section herein and the Association shall fund
7 any such purchase by levying a special assessment on its members for
8 this purpose or by application of any unencumbered earnings of the
9 Fund or any other available funds. The Association may obtain from
10 each member any information the Association may reasonably require
11 in order to facilitate the securing of this primary excess insurance. The
12 Association shall establish reasonable safeguards designed to insure
13 that information so received is used only for this purpose and is not
14 otherwise disclosed;"

15 Sec. 25. G.S. 58-124.24 reads as rewritten:

16 **"§ 58-124.24. Appeal to Commissioner from decision of Bureau.**

17 Any member of the Bureau may appeal to the Commissioner from any decision of
18 the Bureau ~~and the Commissioner shall, after~~. After a hearing held on not less than 10
19 days' written notice to the appellant and to the Bureau, the Commissioner shall issue an
20 order approving or modifying the decision, or directing of the Bureau or directing it to
21 give further consideration to such proposal to reconsider the decision. In the event the
22 Commissioner directs the Bureau to reconsider the decision and the Bureau fails to take
23 satisfactory action satisfactory to the Commissioner, the Commissioner shall make such
24 order as he may see fit."

25 Sec. 26. G.S. 58-9(1) reads as rewritten:

26 "(1) See that all laws of this State ~~governing insurance companies,~~
27 ~~associations, orders or bureaus relating to the business of insurance are~~
28 ~~faithfully executed, that he is statutorily responsible for administering~~
29 are faithfully executed; and to that end he shall have power and
30 authority to make rules and regulations, ~~not inconsistent with law in~~
31 accordance with Chapter 150B of the General Statutes, to enforce,
32 carry out and make effective the provisions of ~~this Chapter, those laws.~~
33 He also has the authority and to make such further rules and regulations,
34 not contrary to any provision of this Chapter those laws which will
35 prevent persons subject to his regulatory authority from engaging in
36 practices injurious to the public by insurance companies, fraternal orders
37 and societies, agents, adjusters and motor vehicle damage appraisers. The
38 Commissioner may likewise, from time to time, withdraw, modify or amend
39 any such regulation: Provided, however, that the provisions of this
40 subsection shall not apply to the provisions of Article 34 of this Chapter."

41 Sec. 27. Article 2 of Chapter 58 of the General Statutes is amended by
42 adding new sections to read:

43 **"§ 58-9.8. Designated hearing officers.**

1 In any contested case under this Chapter, Chapters 57, 57B, or 85C of the
2 General Statutes, Articles 9B or 9C of Chapter 66 of the General Statutes, or Articles
3 9A or 9C of Chapter 143 of the General Statutes, the Commissioner may designate a
4 member of his staff to serve as a hearing officer. Any ruling based on such hearing
5 shall have the same effect as if heard by the Commissioner personally. When the
6 Commissioner is unable or elects not to hear a contested case and elects not to designate
7 a hearing officer to hear a contested case, he shall apply to the director of the Office of
8 Administrative Hearings for the designation an Administrative Law Judge to preside at
9 the hearing of a contested case. Upon receipt of the application, the Director shall,
10 without undue delay, assign an Administrative Law Judge to hear the case.

11 **"§ 58-9.9. Restraining orders; criminal convictions.**

12 (a) Whenever it appears to the Commissioner that any person has violated, is
13 violating, or threatens to violate any provision of this Chapter, Chapters 57, 57B, or 85C
14 of the General Statutes, Article 9B or 9C of Chapter 66 of the General Statutes, or
15 Article 9A or 9C of Chapter 143 of the General Statutes, he may apply to the Superior
16 Court of Wake County for a restraining order and injunction to restrain such violation.
17 If upon application the Court finds that any provision of said statutes has been violated,
18 is being violated, or a violation thereof is threatened, the Court shall issue an order
19 restraining and enjoining such violations; and such relief may be granted regardless of
20 whether criminal prosecution is instituted under any provision of law.

21 (b) The conviction in any court of competent jurisdiction of any licensee for
22 any criminal violation of the statutes referred to in subsection (a) of this section
23 automatically has the effect of suspending the license of that person until such time that
24 the license is reinstated by the Commissioner. As used in this subsection, 'conviction'
25 includes an adjudication of guilt, a plea of guilty, and a plea of **nolo contendere**.

26 **"§ 58-9.10. License surrenders.**

27 This section applies to persons or entities licensed under this Chapter, Chapters
28 57, 57B, or 85C of the General Statutes, Articles 9B or 9C of Chapter 66 of the General
29 Statutes, or Articles 9A or 9C of Chapter 143 of the General Statutes. When a licensee
30 is accused of any act, omission, or misconduct that would subject the license to
31 suspension or revocation, the licensee, with the consent and approval of the
32 Commissioner, may surrender the license for a period of time established by the
33 Commissioner. A person or entity who surrenders a license shall not thereafter be
34 eligible for or submit any application for licensure during the period of license
35 surrender."

36 Sec. 28. G.S. 58-618(c) reads as rewritten:

37 "~~In the event that the action by~~ Whenever the Commissioner is to deny or not
38 renew denies an application for a license or refuses to renew a license, he shall notify the
39 applicant or licensee and advise, in writing, the applicant or licensee of the reasons for
40 the denial or nonrenewal of the license. Within 30 days of receipt of notification the
41 applicant or licensee may make written demand upon the Commissioner for a hearing to
42 determine the reasonableness of the Commissioner's action. Such hearing shall be
43 scheduled within 30 days from the date of receipt of the written demand ~~by the applicant~~
44 ~~and shall be held pursuant to the provisions of Article 3A of Chapter 150B."~~

1 Sec. 29. G.S. 66-49.14 reads as rewritten:

2 "**§ 66-49.14. Hearing on denial of license; ~~judicial review of determination by~~**
3 **Commissioner.**

4 ~~Any applicant for a license or renewal of a license hereunder shall be entitled to a hearing~~
5 ~~before.~~ Whenever the Commissioner denies an application for a license or refuses to
6 renew a license, he shall notify the applicant or licensee and advise, in writing, the
7 applicant or licensee of the reasons for the denial or nonrenewal of the license. Within
8 30 days of receipt of notification the in the event such application is denied or not acted
9 upon within a reasonable time. Any applicant or licensee adversely affected by a
10 determination of may make written demand upon the Commissioner shall have a right to
11 seek judicial review of such determination under the provisions and limitations of G.S. 58-9.3
12 for a hearing to determine the reasonableness of the Commissioner's action. Such
13 hearing shall be scheduled within 30 days from the date of receipt of the written
14 demand."

15 Sec. 30. G.S. 85C-18 reads as rewritten:

16 "**§ 85C-18. Notice and hearing before refusal, suspension, revocation, etc., of**
17 **license.**

18 ~~No license shall be refused, suspended, revoked, or renewal refused except on~~
19 ~~reasonable notice and opportunity to be heard afforded the person licensed or renewal~~
20 ~~thereof.~~

21 **Hearing on denial of license.**

22 Whenever the Commissioner denies an application for a license or refuses to renew
23 a license, he shall notify the applicant or licensee and advise, in writing, the applicant or
24 licensee of the reasons for the denial or nonrenewal of the license. Within 30 days of
25 receipt of notification the applicant or licensee may make written demand upon the
26 Commissioner for a hearing to determine the reasonableness of the Commissioner's
27 action. Such hearing shall be scheduled within 30 days from the date of receipt of the
28 written demand."

29 Sec. 31. Article 27 of Chapter 58 of the General Statutes is amended by
30 adding new sections to read:

31 "**§ 58-260.7. Termination of writing health insurance.**

32 (a) As used in this section and in G.S. 58-260.8, 'health insurance' includes
33 accident insurance and accident and health insurance. Except as provided in G.S. 58-
34 260.8, no insurer may terminate, by nonrenewals, an entire book of business of any kind
35 of health insurance without 60 days prior written notice to the Commissioner; unless the
36 Commissioner determines that continuation of the line of business would impair the
37 solvency of the insurer or unless the Commissioner determines that such termination is
38 effected under a plan that minimizes disruption in the marketplace or that makes
39 provisions for alternative coverage at comparable rates and terms.

40 (b) Except as provided in G.S. 58-260.8, in-term cancellation by an insurer of
41 an entire book of business of any kind of health insurance is presumed to be unfair,
42 inequitable, and contrary to the public interest, and is prohibited; unless the
43 Commissioner determines that continuation of the line of business would impair the
44 solvency of the insurer or unless the Commissioner determines that such termination is

1 affected under a plan that minimizes disruption in the marketplace or that makes
2 provisions for alternative coverage at comparable rates and terms.

3 **"§ 58-260.8. Loss of reinsurance.**

4 An insurer may cancel or refuse to renew a kind of health insurance when the
5 cancellation or nonrenewals is necessary because of a loss of or substantial reduction in
6 applicable reinsurance that was not effected by the insurer, by filing a plan with the
7 Commissioner pursuant to the requirements of this section. The insurer's plan must be
8 filed with the Commissioner at least 15 business days prior to the issuance of any notice
9 of cancellation or nonrenewal. The insurer may implement its plan upon the approval
10 of the Commissioner, which shall be granted or denied in writing, with the reasons for
11 his actions, within 15 business days of the Commissioner's receipt of the plan. Any plan
12 submitted for approval shall contain a certification by an elected officer of the company:

- 13 (1) That the loss or substantial change in applicable reinsurance
14 necessitates the cancellation or nonrenewal action;
- 15 (2) That the insurer has made a good faith effort to obtain replacement
16 reinsurance but was unable to do so because of the unavailability of
17 replacement reinsurance;
- 18 (3) Identifying the category of risks, the total number of risks written by
19 the company in that category, and the number of risks intended to be
20 cancelled or not renewed;
- 21 (4) Identifying the total amount of the insurer's net retention for the risks
22 intended to be cancelled or not renewed;
- 23 (5) Identifying the total amount of risk ceded to each reinsurer and the
24 portion of that total that is no longer available;
- 25 (6) Explaining how the loss of or reduction in reinsurance affects the
26 insurer's risks throughout the kind of insurance proposed for
27 cancellation or nonrenewal;
- 28 (7) Explaining why cancellation or nonrenewal is necessary to cure the
29 loss of or reduction in reinsurance; and
- 30 (8) Explaining how the cancellation or nonrenewals, if approved, will be
31 implemented and the steps that will be taken to ensure that the
32 cancellation or nonrenewal decisions will not be applied in an
33 arbitrary, capricious, or unfairly discriminatory manner.

34 **"§ 58-260.9. Policyholder or certificate holder list.**

35 As a prerequisite to the granting of approval by the Commissioner under G.S. 58-
36 260.7 or G.S. 58-260.8, the insurer must furnish the Commissioner with a list of all
37 known policyholders and certificate holders. Such list shall contain the names and last
38 known addresses of such persons."

39 Sec. 32. Article 20 of Chapter 58 of the General Statutes is amended by
40 adding new sections to read:

41 **"§ 58-182.9. Deposits of foreign life insurance companies.**

42 In addition to other requirements of this Chapter, all foreign life insurance
43 companies shall deposit securities, as specified in G.S. 58-182.3, having a market value
44 of one hundred thousand dollars (\$100,000) as a prerequisite of doing business in this

1 State. All foreign life insurance companies shall deposit an additional one hundred
2 thousand dollars (\$100,000) where such companies cannot show three years of net
3 operational gains prior to admission. Foreign life insurance companies that are licensed
4 on or before the effective date of this section shall have one year from that date to
5 comply with this section.

6 **§ 58-182.10. Deposits of capital and surplus by domestic insurance companies.**

7 (a) In addition to other requirements of this Chapter, all domestic stock insurance
8 companies shall deposit their required statutory capital with the Department. Such
9 deposits shall be under the exclusive control of the Department, for the protection of all
10 policyholders wheresoever situated.

11 (b) In addition to other requirements of this Chapter, all domestic mutual
12 insurance companies shall deposit at least fifty percent (50%) of their minimum
13 required surplus with the Department, with the amount of the deposit to be determined
14 by the Commissioner. Such deposits shall be under the exclusive control of the
15 Department, for the protection of all policyholders wheresoever situated.

16 (c) Domestic insurance companies that are licensed on or before the effective
17 date of this section shall have one year from that date to comply with this section."

18 Sec. 33. G.S. 58-79.1(c) is amended by adding a new subdivision to read:

19 " (11) Electronic and mechanical machines constituting a data
20 processing and accounting system if the cost of such system is at
21 least twenty-five thousand dollars (\$25,000), but not more than two
22 percent (2%) of its admitted assets, which cost shall be amortized in
23 full over a period not to exceed 10 calendar years."

24 Sec. 34. G.S. 58-16 reads as rewritten:

25 **"§ 58-16. Examinations to be made.**

26 Before granting certificates of authority to an insurance company to issue policies or
27 make contracts of insurance the Commissioner shall be satisfied, by such examination
28 and evidence as he sees fit to make and require, that the company is otherwise duly
29 qualified under the laws of the State to transact business therein. As often as once in
30 three years ~~or, in the Commissioner's discretion, as often as once in five years~~ he shall
31 personally or by his deputy visit each domestic insurance company and thoroughly
32 inspect and examine its affairs, especially as to its financial condition and ability to
33 fulfill its obligations and whether it has complied with the laws. He shall also make an
34 examination of any such company whenever he deems it prudent to do so, or upon the
35 request of five or more of the stockholders, creditors, policyholders, or persons
36 pecuniarily interested therein, who shall make affidavit of their belief, with
37 specifications of their reasons therefor, that the company is in an unsound condition.
38 Whenever the Commissioner deems it prudent for the protection of policyholders in this
39 State he shall in like manner visit and examine, or cause to be visited and examined by
40 some competent person appointed by him for that purpose, any foreign insurance
41 company applying for admission or already admitted to do business in this State. Any
42 domestic or foreign company examined under this section shall pay the proper charges
43 incurred in the examination, including the expenses of the Commissioner or his deputy
44 and the expenses and compensation of his assistants employed therein. The refusal of

1 any insurer to submit to examination, or the refusal or failure of an insurer to pay the
2 expenses of examination upon presentation of a bill therefor by the Commissioner, shall
3 be grounds for the revocation or refusal of a license. The Commissioner is authorized to
4 make public any such revocation or refusal of license as he may determine and to give
5 his reasons therefor. The Commissioner shall promptly institute a civil action to recover
6 the expenses of examination against any insurer which refuses or fails to pay. For these
7 purposes the Commissioner or his deputy or persons making the examination shall have
8 free access to all the books and papers of the insurance company that relate to its
9 business, and to the books and papers kept by any of its agents, or to the books and
10 papers of any affiliated or subsidiary corporations or partnerships that affect the affairs
11 or financial condition of said company and may summon, administer oaths to, and
12 examine as witnesses, the directors, officers, agents, and trustees of any such company,
13 and any other person, affiliate or subsidiary in relation to its affairs, transactions, and
14 condition."

15 Sec. 35. Article 2 of Chapter 58 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 58-21.4. CPA audits of financial statements.**

18 (a) Each authorized insurer shall on or before June 30th of each year,
19 beginning in 1990, provide the audited financial statements opinion, and letter report of
20 material weaknesses as required in this section.

21 (b) Each authorized insurer shall retain an independent certified public
22 accountant ('CPA'), who agrees by written contract with the insurer to comply with
23 these provisions. The contract shall specify that:

24 (1) On or before June 30th, the CPA shall provide to the insurer audited
25 financial statements and opinion based upon statutory principles
26 consistent with this Chapter for the preceding calendar year and a letter
27 report of material weaknesses in accordance with generally accepted
28 reporting standards on the accounting procedures and internal control
29 systems of the insurer.

30 (2) Any determination by the CPA that the insurer has materially
31 misstated its financial condition as reported to the Department on its
32 most recent financial statement or that the insurer does not meet
33 minimum capital and surplus requirements as set forth in this Chapter
34 shall be given by the CPA, in writing, to the insurer within 15 calendar
35 days following a final determination by the CPA firm that such a
36 misstatement was made. For purposes of this subparagraph, material
37 misstatement means a misstatement or the sum of misstatements that
38 overstates the surplus as regards policyholders by five percent (5%) or
39 more.

40 (3) The completed work papers and any written communications between
41 the CPA firm and the insurer relating to the audit of the insurer shall
42 be made available for review by the Department at the offices of the
43 insurer, at the Department, or at any other reasonable place as mutually
44 agreed between the Department and the insurer. The CPA must retain

1 for review the work papers and written communications for a period of
2 not less than six years.

3 (c) Any authorized insurer otherwise subject to these requirements with less
4 than two hundred fifty thousand dollars (\$250,000) in direct premiums written in this
5 State during the subject calendar year or with less than 500 policyholders at the end of
6 the calendar year shall, in lieu of the required submittal of the audited financial
7 statements, opinion, and evaluation as required in this section, submit an affidavit sworn
8 to by a responsible officer of the insurer specifying the amount of direct premiums
9 written in this State and number of policyholders.

10 (d) Any insurer otherwise subject to this section and not eligible for an
11 exemption under subsection (c) of this section may submit to the Department an
12 exemption application. The Department shall grant to the insurer an exemption to these
13 requirements if the Department determines that:

14 (1) Compliance with subsection (a) of this section would result in an
15 undue financial hardship on the insurer due to the cost of preparing
16 such statements; and

17 (2) The insurer will file financial statements that have been reviewed or
18 compiled by a CPA and that the Department determines are
19 sufficiently reliable and complete for the Department to evaluate the
20 financial condition and stability of the insurer. Applications for
21 exemptions for the calendar year 1989 must be filed with the
22 Department on or before March 1, 1990. In 1990 and in each
23 subsequent year, applications for exemptions must be filed with the
24 Department prior to the end of the calendar year for which the
25 exemption is being requested.

26 (e) Each CPA who enters into a contract with an insurer pursuant to this section
27 shall notify the Department of the date of completion of any audit, report,
28 determination, financial statement, or other requirements within 10 days of providing
29 notice or other communication to the insurer as to such completion.

30 (f) Each authorized insurer shall, within 10 days of receipt, file with the
31 Department any report, financial statements, or determination that it receives from a
32 CPA pursuant to this section."

33 Sec. 36. G.S. 85C-11 reads as rewritten:

34 **"§ 85C-11. Qualification for professional bondsmen and runners.**

35 Before license can issue to an applicant permitting him to act as a professional
36 bondsman or runner, he must furnish the Commissioner a complete set of his
37 fingerprints and a recent passport size full-face photograph of himself. The applicant's
38 fingerprints shall be certified by an authorized law-enforcement officer.

39 Every applicant for license as a professional bondsman or runner before being issued
40 such license shall satisfy the Commissioner that he:

41 (1) Is 18 years of age or over;

42 (2) Is a resident of domiciled in this State; and if not domiciled in this
43 State, in addition to meeting all other requirements of this Chapter, the
44 applicant shall be required to maintain during the period of licensure a

1 surety bond, issued by a licensed surety company, that will guarantee
 2 payment of all bonds or undertakings written in this State on which he
 3 is absolutely or conditionally liable;

4 (3) Is a person of good moral character and has not been convicted of a
 5 felony or any crime involving moral turpitude;

6 (4) Has knowledge, training, or experience of sufficient duration and
 7 extent to reasonably satisfy the Commissioner that he possesses the
 8 competence necessary to fulfill the responsibilities of a licensee;

9 (5) Has no outstanding bail bond obligations;

10 (6) Is not or has not been in violation of any provision of this Chapter or
 11 of Article 26 of Chapter 15A of the General Statutes or of any similar
 12 provision of law of any other state;

13 (7) Has not been in any manner disqualified under the laws of this State or
 14 any other state to engage in the bail bond business."

15 Sec. 37. G.S. 85C-17(a) is amended by adding the following new
 16 subdivisions:

17 " (12) For cheating on an examination for a license under this
 18 Chapter.

19 (13) For entering into any business association or agreement with any
 20 person, which person is at that time found by the Commissioner to be
 21 in violation of any of the bail bond laws of this State, or which person
 22 has been in any manner disqualified under the bail bond laws of any
 23 other state, whereby such person has any direct or indirect financial
 24 interest in the bail bond business of the licensee or applicant.

25 (14) For knowingly aiding or abetting others to evade or violate the
 26 provisions of this Chapter."

27 Sec. 38. G.S. 85C-17(b) reads as rewritten:

28 "(b) The Commissioner, in addition to or in lieu of revoking or suspending a
 29 license in accordance with the provisions of this Chapter, may, in any one proceeding,
 30 by order, require the licensee to pay to the school fund in the county of his residence a
 31 civil penalty in the sum of ~~two hundred fifty dollars (\$250.00)~~ five hundred dollars
 32 (\$500.00) for each offense. Upon failure of such licensee to pay penalty within 20 days
 33 after the mailing of such order, postage prepaid, registered and addressed to the last
 34 known place of business of such licensee, unless such order is stayed by an order of the
 35 court of competent jurisdiction, the Commissioner may revoke the license of such
 36 licensee or may suspend the same for such period as he may determine."

37 Sec. 39. G.S. 85C-36 reads as rewritten:

38 "**§ 85C-36. Limit on principal amount of bond to be written by professional**
 39 **bondsman.**

40 No professional bondsman shall ~~act as surety become liable~~ on any ~~bail bond~~ or
 41 multiple of bonds for any one individual ~~pertaining to any charges arising out of one~~
 42 ~~transaction or related transactions whose principal sum is in excess of that totals more~~
 43 than one-fourth of the value of the securities deposited with the Commissioner at that
 44 time, until final termination of liability on such bond or multiple of bonds."

1 Sec. 40. G.S. 85C-34 reads as rewritten:

2 **"§ 85C-34. Monthly report required.**

3 Each professional bail bondsman and surety bondsman shall file with the
4 Commissioner of Insurance a written report in form prescribed by the Commissioner
5 regarding all bail bonds on which he is liable as of the first day of each month showing
6 (i) each individual bonded, (ii) the date such bond was given, (iii) the principal
7 sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged
8 for the bonding service in each instance. Such report shall be filed on or before the
9 fifteenth day of each month. Within the same time, a copy of this written report must
10 also be filed with the clerk of superior court in any county in which he is obligated on
11 bail bonds."

12 Sec. 41. G.S. 143-143.11 is amended by adding a new subsection to read:

13 "(h) To obtain a license under this Article, a person must pass an examination
14 prescribed by the Board that is based on the North Carolina Manufactured/Mobile
15 Home Regulations and Administrative Procedures required to enforce the Codes."

16 Sec. 42. G.S. 143-143.13(c) reads as rewritten:

17 "(c) In addition to the authority to deny, suspend, or revoke a license under this
18 Article, the Board also has the authority to impose a five hundred dollar (\$500.00) civil
19 penalty per violation upon any person violating the provisions of this Article."

20 Sec. 43. G.S. 58-173.7 reads as rewritten:

21 **"§ 58-173.7. Directors to submit plan of operation to Commissioner; review and**
22 **approval; amendments.**

23 Within 90 days after April 17, 1969, the directors of the Association shall submit to
24 the Commissioner for his review and approval, a proposed plan of operation. Such
25 proposed plan shall set forth the number, qualifications, terms of office, and manner of
26 election of the members of the board of directors, and shall grant proper credit annually
27 to each member of the Association for essential property insurance voluntarily written
28 in the beach area and shall provide for the efficient, economical, fair and
29 nondiscriminatory administration of the Association and for the prompt and efficient
30 provision of essential property insurance in the beach areas of North Carolina so as to
31 promote orderly community development in those areas and to provide means for the
32 adequate maintenance and improvement of the property in such areas. Such proposed
33 plan may include a preliminary assessment of all members for initial expenses necessary
34 to the commencement of operation; the establishment of necessary facilities;
35 management of the Association; plan for the assessment of members to defray losses
36 and expenses; underwriting standards; procedures for the acceptance and cession of
37 reinsurance; procedures for determining the amounts of insurance to be provided to
38 specific risks; time limits and procedures for processing applications for insurance and
39 for such other provisions as may be deemed necessary by the Commissioner to carry out
40 the purposes of this Article.

41 The proposed plan shall be reviewed by the Commissioner and approved by him if
42 he finds that such plan fulfills the purposes provided by G.S. 58-173.1 of this Article. In
43 the review of the proposed plan the Commissioner may, in his discretion, consult with
44 the directors of the Association and may seek any further information which he deems

1 necessary to his decision. If the Commissioner approves the proposed plan, he shall
2 certify such approval to the directors and the plan shall become effective 10 days after
3 such certification. If the Commissioner disapproves all or any part of the proposed plan
4 of operation he shall return the same to the directors with his written statement for the
5 reasons for disapproval and any recommendations he may wish to make. The directors
6 may alter the plan in accordance with the Commissioner's recommendation or may
7 within 30 days from the date of disapproval return a new plan to the Commissioner.
8 Should the directors fail to submit a proposed plan of operation within 90 days of April
9 17, 1969, or a new plan which is acceptable to the Commissioner, or accept the
10 recommendations of the Commissioner within 30 days after his disapproval of the plan,
11 the Commissioner shall promulgate and place into effect a plan of operation certifying
12 the same to the directors of the Association. Any such plan promulgated by the
13 Commissioner shall take effect 10 days after certification to the directors: Provided,
14 however, that until a plan of operation is in effect, pursuant to the provisions of this
15 Article, any existing temporary placement facility may be continued in effect on a
16 mandatory basis on such terms as the Commissioner may determine.

17 The directors of the Association may, subject to the approval of the Commissioner,
18 amend the plan of operation at any time. The Commissioner may review the plan of
19 operation at any time he deems expedient or prudent, but not less than once in each
20 calendar year. After review of such plan the Commissioner may amend the plan after
21 consultation with the directors and upon certification to the directors of such
22 amendment.

23 The Commissioner may designate the kinds of property insurance policies on
24 principal residences to be offered by the association, including insurance policies under
25 Article 12B of this Chapter, and the commission rates to be paid to agents or brokers for
26 these policies, if he finds, after a hearing held in accordance with G.S. 58- 9.2, that the
27 public interest requires the designation. The provisions of Chapter 150B do not apply to
28 any procedure under this paragraph, except that G.S. 150B-39 and G.S. 150B-41 shall
29 apply to a hearing under this subsection. Within 30 days after the receipt of notification
30 from the Commissioner of a change in designation pursuant to this paragraph, the
31 association shall submit a revised plan and articles of association for approval in
32 accordance with this section.

33 As used in this section, 'plan of operation' includes all rules, practices, and
34 procedures of the Association."

35 Sec. 44. G.S. 58-173.21 is amended by adding a new subsection to read:

36 "(d) As used in this section, 'FAIR Plan' and 'articles of association' include all
37 rules, practices, and procedures of the association created pursuant to this Article."

38 Sec. 45. Within 30 days after the effective date of this act, the North Carolina
39 Joint Underwriting Association shall file, with the Commissioner of Insurance for his
40 approval, copies of all rules, practices, and procedures that are not contained within
41 their respective plans of operation or other documents that have already been approved
42 by the Commissioner.

43 Sec. 46. G.S. 58-173.2(5) reads as rewritten:

1 "(5) 'Insurable property' means real property at fixed locations in beach areas of
2 the State as that term is hereinafter defined or the tangible personal property located
3 therein, but shall not include insurance on motor vehicles, ~~farm~~ and or manufacturing
4 risks, which property is determined by the Association, after inspection and pursuant to
5 the criteria specified in the plan of operation, to be in an insurable condition: Provided,
6 however, any one and two family dwellings built in substantial accordance with the
7 Federal Manufactured Home Construction and Safety Standards, any predecessor or
8 successor federal or State construction or safety standards, and any further construction
9 or safety standards promulgated by the association and approved by the Commissioner,
10 or the North Carolina Uniform Residential Building Code and any structure or building
11 built in substantial compliance with the North Carolina Building Code, including the
12 design-wind requirements, which is not otherwise rendered uninsurable by reason of use
13 or occupancy, shall be an insurable risk within the meaning of this Article, but
14 neighborhood, area, location, environmental hazards beyond the control of the applicant
15 or owner of the property shall not be considered in determining insurable condition.
16 Provided further, that any structure commenced on or after January 1, 1970, not built in
17 substantial compliance with the Federal Manufactured Home Construction and Safety
18 Standards, any predecessor or successor federal or State construction or safety
19 standards, and any further construction or safety standards promulgated by the
20 association and approved by the Commissioner, or the North Carolina Uniform
21 Residential Building Code or the North Carolina Building Code, including the design-
22 wind requirements therein, shall not be an insurable risk. The owner or applicant shall
23 furnish with the application proof in the form of a certificate from a local building
24 inspector, contractor, engineer or architect that the structure is built in substantial
25 accordance with the Federal Manufactured Home Construction and Safety Standards,
26 any predecessor or successor federal or State construction or safety standards, and any
27 further construction or safety standards promulgated by the association and approved
28 by the Commissioner, or the North Carolina Uniform Residential Building Code or the
29 North Carolina Building Code; provided, however, such individual certificate shall not
30 be necessary in those cases where the structure is located within a political subdivision
31 which has certified to the Association on an annual basis that it is enforcing the North
32 Carolina Uniform Residential Building Code or the North Carolina Building Code and
33 has no plans to discontinue enforcing these codes during that year."

34 Sec. 47. Article 18A of Chapter 58 of the General Statutes is amended by
35 adding a new section to read:

36 **"§ 58-173.16B. New programs or coverages; penalty for noncompliance.**

37 (a) Unless specifically waived by the Commissioner, all new programs or
38 coverages shall be made available by the Association to policyholders or applicants no
39 later than 30 days after the effective date of any statutory or regulatory requirement or
40 within 30 days of the Commissioner's approval of any program or coverage filed by the
41 North Carolina Rate Bureau, by the Insurance Services Office, or by any similar or
42 successor entity.

43 (b) If the Association fails to comply with subsection (a) of this section, the
44 Commissioner shall impose a civil penalty of five hundred dollars (\$500.00) for each

1 policy issued in violation of subsection (a) of this section, the clear proceeds of which
2 penalty shall be forwarded to the General Fund. Any penalty imposed under this
3 section shall be absorbed by the member companies of the Association and shall not be
4 passed on to any policyholders."

5 Sec. 48. Article 18B of Chapter 58 of the General Statutes is amended by
6 adding a new section to read:

7 **"§ 58-173.32. New programs or coverages; penalty for noncompliance.**

8 (a) Unless specifically waived by the Commissioner, all new programs or
9 coverages shall be made available by the Association to policyholders or applicants no
10 later than 30 days after the effective date of any statutory or regulatory requirement or
11 within 30 days of the Commissioner's approval of any program or coverage filed by the
12 North Carolina Rate Bureau, by the Insurance Services Office, or by any similar or
13 successor entity.

14 (b) If the Association fails to comply with subsection (a) of this section, the
15 Commissioner shall impose a civil penalty of five hundred dollars (\$500.00) for each
16 policy issued in violation of subsection (a) of this section, the clear proceeds of which
17 penalty shall be forwarded to the General Fund. Any penalty imposed under this
18 section shall be absorbed by the member companies of the Association and shall not be
19 passed on to any policyholders."

20 Sec. 49. Article 17 of Chapter 58 of the General Statutes is amended by
21 adding a new section to read:

22 **"§ 58-150.1. Amendments to documents.**

23 Any change in or amendment to any document required to be filed under G.S.
24 58-150 shall be promptly filed with the Commissioner."

25 Sec. 50. G.S. 58-73 reads as rewritten:

26 **"§ 58-73. Manner of creating such corporations.**

27 The procedure for organizing such corporations is as follows: The proposed
28 incorporators, not less than 10 in number, a majority of whom must be residents of the
29 State, shall subscribe articles of association setting forth their intention to form a
30 corporation; its proposed name, which must not so closely resemble the name of an
31 existing corporation doing business under the laws of this State as to be likely to
32 mislead the public, and must be approved by the Commissioner of Insurance; the class
33 of insurance it proposes to transact and on what business plan or principle; the place of
34 its location within the State, and if on the stock plan, the amount of its capital stock. The
35 words 'insurance company,' 'insurance association,' or 'insurance society' or 'life' or
36 'casualty' or 'indemnity,' or an acceptable alternative approved by the Commissioner,
37 must be a part of the title of any such corporation; ~~and also the word "mutual," if it is~~
38 ~~organized upon the mutual principle.~~ The certificate of incorporation must be subscribed
39 and sworn to by the incorporators before an officer authorized to take acknowledgment
40 of deeds, who shall forthwith certify the certificate of incorporation, as so made out and
41 signed, to the Commissioner of Insurance of the State at his office in the City of
42 Raleigh. The Commissioner of Insurance shall examine the certificate, and if he
43 approves of it and finds that the requirements of the law have been complied with, shall
44 certify such facts, by certificate on such articles, to the Secretary of State. Upon the

1 filing in the office of the Secretary of State of the certificate of incorporation and
2 attached certificates, and the payment of a charter fee in the amount required for private
3 corporations, and the same fees to the Secretary of State, the Secretary of State shall
4 cause the certificate and accompanying certificates to be recorded in his office, and shall
5 issue a certificate in the following form:

6 Be it known that, whereas (here the names of the subscribers to the articles of
7 association shall be inserted) have associated themselves with the intention of forming a
8 corporation under the name of (here the name of the corporation shall be inserted), for
9 the purpose (here the purpose declared in the articles of association shall be inserted),
10 with a capital (or with a permanent fund) of (here the amount of capital or permanent
11 fund fixed in the articles of association shall be inserted), and have complied with the
12 provisions of the statute of this State in such case made and provided, as appears from
13 the following certified articles of association: (here copy articles of association and
14 accompanying certificates). Now, therefore, I (here the name of the Secretary shall be
15 inserted), Secretary of State, hereby certify that (here the names of the subscribers to the
16 articles of association shall be inserted), their associates and successors, are legally
17 organized and established as, and are hereby made, an existing corporation under the
18 name of (here the name of the corporation shall be inserted), with such articles of
19 association, and have all the powers, rights, and privileges and are subject to the duties,
20 liabilities, and restrictions which by law appertain thereto.

21 Witness my official signature hereunto subscribed, and the seal of the State of North
22 Carolina hereunto affixed, this the day of, in the year (in these blanks the
23 day, month, and year of execution of this certificate shall be inserted; and in the case of
24 purely mutual companies, so much as relates to capital stock shall be omitted).

25 The Secretary of State shall sign the certificate and cause the seal of the State to be
26 affixed to it, and such certificate of incorporation and certificate of the Secretary of
27 State has the effect of a special charter and is conclusive evidence of the organization
28 and establishment of the corporation. The Secretary of State shall also cause a record of
29 his certificate to be made, and a certified copy of this record may be given in evidence
30 with the same effect as the original certificate.

31 Any change in or amendment to the articles of incorporation, charter, or bylaws shall
32 be promptly filed with the Commissioner."

33 Sec. 51. G.S. 58-260.3 is amended by adding a new subsection to read:

34 "(h) Persons insured who have incurred medical or hospital costs shall have a lien
35 identical to that provided employees under G.S. 44-5.1 in event of the insolvency of the
36 employer or insurance fiduciary."

37 Sec. 52. Article 27 of Chapter 58 of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 58-260.7. Approval of precertification practices.**

40 (a) This section applies to all accident and health insurers under this Chapter,
41 all third party administrators and preferred provider arrangements, all entities subject to
42 Chapters 57 and 57B of the General Statutes, and all self-funded health benefit plans.

43 (b) The Commissioner is authorized to adopt reasonable rules governing
44 precertification practices and forms and utilization review organizations affiliated with

1 the entities subject to this section. In promulgating such rules, the Commissioner shall
2 give due consideration to guidelines developed jointly by the Health Insurance
3 Association of America and the American Medical Association."

4 Sec. 53. This act is effective upon ratification.