

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 512
Insurance Committee Substitute Adopted 5/8/89
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House Committee Substitute Favorable 6/19/89

Short Title: Insurance Omnibus Amendments.

(Public)

Sponsors:

Referred to:

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 G.S. 113-28.3 is repealed.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

1 (4) Domestic societies or associations of a purely religious, charitable or  
2 benevolent description, which provide for a death benefit of not more  
3 than ~~four hundred dollars (\$400.00)~~ five hundred dollars (\$500.00) or for  
4 disability benefits of not more than three hundred fifty dollars  
5 (\$350.00) to any one person in any one year, or both."

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

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

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

13 "(b) Each application for the issuance or renewal of a certificate shall be  
14 accompanied by a filing fee of twenty dollars (\$20.00) and evidence of maintenance of  
15 a ~~fidelity bond of not less than one hundred thousand dollars (\$100,000)~~ surety bond in an  
16 amount to be determined by rules adopted by the Commissioner."

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

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

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

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

33 Sec. 7. G.S. 58-351(b) reads as rewritten:

34 "(b) The refund of premiums for decreasing term credit life insurance in  
35 transactions of 60 months or less and the refund of premiums for single interest credit  
36 property insurance and single interest physical damage insurance shall be equal to the  
37 amount computed by the sum of digits formula known as the 'Rule of 78.' The refund  
38 of premiums for decreasing term credit life insurance in transactions of more than 60  
39 months duration shall be equal to the premium that would be charged for the remaining  
40 term and amount of coverage in the policy. The refund of premiums for level term  
41 credit life insurance and dual interest credit property insurance and dual interest  
42 physical damage insurance shall be equal to the pro rata unearned gross premiums."

1           Sec. 8. G.S. 58-176(c) is amended, at the bottom of the first page of  
2 photographically reproduced form, by deleting "Noon" and substituting "12:01 a.m." for  
3 "Noon" in both places where it appears.

4           Sec. 9. G.S. 58-54 reads as rewritten:

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

6       (a) It is unlawful for any insurance company doing business in this State to issue,  
7 sell, 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       (b) As to group and blanket accident and health insurance and group life  
15 insurance policies issued and delivered to a trust outside of this State and covering  
16 persons resident in this State, the group certificates to be delivered or issued for delivery  
17 in this State shall be filed with and approved by the Commissioner pursuant to  
18 subsection (a) of this section."

19           Sec. 10. Article 3 of Chapter 58 of the General Statutes is amended by  
20 adding a new section to read:

21 **"§ 58-30.6. Meaning of terms 'accident', 'accidental injury', and 'accidental**  
22 **means'.**

23       (a) This section applies to the provisions of all group life, group accident, group  
24 health, and group accident and health insurance policies and group annuities under this  
25 Chapter that are issued on or after October 1, 1989, and preferred provider arrangements  
26 under this Chapter that are entered into on or after October 1, 1989.

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."

30           Sec. 11. Article 1 of Chapter 57 of the General Statutes is amended by  
31 adding a new section to read:

32 **"§ 57-1.3. Meaning of terms 'accident', 'accidental injury', and 'accidental means'.**

33       (a) This section applies to the provisions of all subscriber contracts under this  
34 Chapter that are issued on or after October 1, 1989, and preferred provider arrangements  
35 under this Chapter that are entered into on or after October 1, 1989.

36       (b) 'Accident', 'accidental injury', and 'accidental means' shall be defined to  
37 imply 'result' language and shall not include words that establish an accidental means  
38 test."

39           Sec. 12. Chapter 57B of the General Statutes is amended by adding a new  
40 section to read:

41 **"§ 57B-2.1. Meaning of terms 'accident', 'accidental injury', and 'accidental**  
42 **means'.**

43       (a) Effective October 1, 1989, this section applies to all health maintenance  
44 organization plans under this Chapter.

1       (b) 'Accident', 'accidental injury', and 'accidental means' shall be defined to  
2 imply 'result' language and shall not include words that establish an accidental means  
3 test."

4               Sec. 13. Article 32 of Chapter 58 of the General Statutes is amended by  
5 adding a new section to read:

6 **"§ 58-360. Automobile physical damage insurance.**

7       (a) Single interest or dual interest physical damage insurance may be written on  
8 nonfleet private passenger motor vehicles, as defined in G.S. 58-131.35A, that are used  
9 as collateral for loans made under Article 15 of Chapter 53 of the General Statutes,  
10 subject to the following conditions:

11           (1) Such insurance may be written only on a motor vehicle on which there  
12 is a valid inspection sticker.

13           (2) If a motor vehicle is already insured and the lender is named loss  
14 payee and that insurance continues in force, then no other physical  
15 damage insurance may be written.

16           (3) Notification must be given orally and in writing to the borrower that he  
17 has the option to provide his own insurance coverage at any point  
18 during the term of the loan.

19           (4) The creditor must have either a first or second lien on the motor  
20 vehicle to be insured.

21           (5) The amount of insurance coverage may not exceed the lesser of (i) the  
22 principal amount of the loan plus allowable charges, excluding  
23 interest, plus two scheduled installment payments or (ii) the actual fair  
24 market value of the collateral at the time the insurance is written.

25           (6) When a creditor accepts other collateral in addition to a motor vehicle  
26 as herein defined, the combined insurance on all collateral may not  
27 exceed the initial indebtedness of the loan.

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

31               Sec. 14. G.S. 58-54.24 reads as rewritten:

32 **"§ 58-54.24. Commissioner authorized to seek injunctions against unauthorized**  
33 **insurers. Cease and desist orders.**

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

43       (a) Whenever the Commissioner, from evidence satisfactory to him, has  
44 reasonable grounds to believe that any person is violating or is about to violate G.S. 58-

1 54.21, he may, after notice and opportunity for hearing, reduce his findings to writing  
2 and issue and cause to be served upon such person an order to cease and desist from  
3 violating G.S. 58-54.21.

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

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

16 Sec. 15. Article 3C of Chapter 58 of the General Statutes is amended by  
17 adding the following new sections:

18 **"§ 58-54.24A. Judicial review of cease and desist orders.**

19 (a) Any person required by an order of the Commissioner under G.S. 58-  
20 54.24 to cease and desist may obtain a review of such order by filing in the Superior  
21 Court of Wake County, within 30 days from the date of the service of such order, a  
22 written petition praying that the order of the Commissioner be set aside. A copy of such  
23 petition shall be immediately served upon the Commissioner, and the Commissioner  
24 shall then immediately certify and file in the Court a transcript of the entire record in the  
25 proceeding, including all the evidence taken, and the order of the Commissioner. Upon  
26 such filing of the petition and transcript the Court has jurisdiction of the proceeding and  
27 of the question determined therein, shall determine whether the filing of such petition  
28 shall operate as a stay of such order of the Commissioner, and has the power to make  
29 and enter upon the pleadings, evidence, and proceedings set forth in such transcript a  
30 decree modifying, affirming, or reversing the order of the Commissioner, in whole or in  
31 part. The findings of the Commissioner as to the facts, if supported by substantial  
32 evidence, shall be conclusive.

33 (b) To the extent that the order of the Commissioner is affirmed, the Court  
34 shall thereupon issue its own order commanding obedience to the terms of such order of  
35 the Commissioner. If either party applies to the Court for leave to adduce additional  
36 evidence, and satisfies the Court that such additional evidence is material and that there  
37 were reasonable grounds for the failure to adduce such evidence in the proceeding  
38 before the Commissioner, the Court may order such additional evidence to be taken  
39 before the Commissioner and to be adduced upon the hearing in such manner and upon  
40 such terms and conditions as the Court considers proper. The Commissioner may  
41 modify his findings of fact, or make new findings by reason of the additional evidence  
42 so taken; and he shall file such modified or new findings which, if supported by  
43 substantial evidence, shall be conclusive; or shall file his recommendations, if any, for

1 the modification or setting aside of his original order, with the return of such additional  
2 evidence.

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

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

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

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

14 **"§ 58-54.24B. Penalty.**

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

18 **"§ 58-54.24C. Provisions of Article additional to existing law.**

19 The powers vested in the Commissioner by this Article are additional to any  
20 other powers to enforce any penalties, fines, or forfeitures authorized by law with  
21 respect to transacting the business of insurance without authority."

22 Sec. 16. Section 16 of Chapter 430 of the 1987 Session Laws reads as  
23 rewritten:

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

26 Sec. 17. G.S. 58-614(c)(4) and G.S. 58-614(c)(6) are repealed.

27 Sec. 18. G.S. 58-614(d) reads as rewritten:

28 "(d) A fire and casualty insurance license shall not authorize an agent ~~or broker~~ to  
29 sell accident and health insurance. An agent ~~or broker~~ must hold a life, accident and  
30 health insurance license or an accident and health insurance license to sell accident and  
31 health insurance."

32 Sec. 19. G.S. 58-614(e) reads as rewritten:

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

35 (1) ~~Variable Contracts~~

36 (2) ~~Ocean Marine~~

37 (3) Credit Life, Accident and Health

38 (4) Credit

39 (5) Travel Accident and Baggage

40 (6) Motor Club

41 (7) Dental Service ".

42 Sec. 20. G.S. 58-614 is amended by adding a new subsection to read:

43 "(d1) A life, accident and health insurance license shall authorize an agent to sell  
44 variable contracts, provided that the licensee satisfies the Commissioner that he has

1 successfully completed Part I, NASD Securities Examination, or an alternative  
2 examination satisfactory to the Commissioner; and that he has complied with all  
3 securities registration requirements under State and federal law.”

4 Sec. 21. G.S. 58-615(d)(2) reads as rewritten:

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

27 Sec. 22. G.S. 58-30.3 is amended by adding the following subsection:

28 "(c) No insurer shall refuse to insure or refuse to continue to insure an individual;  
29 limit the amount, extent, or kind of coverage available to an individual; or charge an  
30 individual a different rate for the same coverage, because of the race, color, or national  
31 or ethnic origin of that individual. This subsection supplements the provisions of G.S.  
32 58-54.4(7)."

33 Sec. 23. Article 1 of Chapter 57 of the General Statutes is amended by  
34 adding a new section to read:

35 "**§ 57-1.4. Discriminatory practices prohibited.**

36 No person subject to this Chapter shall refuse to issue or refuse to reissue to an  
37 individual any certificate, plan, or contract governed by this Chapter; limit the amount,  
38 extent, or kind of services available to an individual; or charge an individual a different  
39 rate for the same services, because of the race, color, or national or ethnic origin of that  
40 individual."

41 Sec. 24. G.S. 57B-12 is amended by adding a new subsection to read:

42 "(f) No health maintenance organization shall refuse to enroll an individual or  
43 refuse to continue enrollment of an individual in a health care plan; limit the amount,  
44 extent, or kinds of health care plans available to an individual; or charge an individual a

1 different rate for the same health care plan, because of the race, color, or national or  
2 ethnic origin of that individual.”

3 Sec. 25. G.S. 58-42.1 reads as rewritten:

4 **"§ 58-42.1. Twisting with respect to insurance policies; penalties.**

5 No insurer shall make or issue, or cause to be issued, any written or oral statement  
6 that willfully misrepresents or willfully makes an incomplete comparison as to the  
7 terms, conditions, or benefits contained in any policy of insurance for the purpose of  
8 inducing or attempting to induce a policyholder in any way to terminate or surrender,  
9 exchange, or convert any insurance policy. Any person who violates this section is  
10 subject to the provisions of G.S. 58-9.7, 58-37 through 58-39, ~~58-42,~~ and 58-44.4."

11 Sec. 26. G.S. 58-173.8(a) reads as rewritten:

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

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

21 Sec. 27. G.S. 97-133(a)(3) reads as rewritten:

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



1 Commissioner. All earnings from investment of Fund assets shall be  
2 placed in or credited to the Fund.

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

19 Sec. 28. G.S. 58-124.24 reads as rewritten:

20 **"§ 58-124.24. Appeal to Commissioner from decision of Bureau.**

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

29 Sec. 29. G.S. 58-9(1) reads as rewritten:

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

1           Sec. 30. Article 2 of Chapter 58 of the General Statutes is amended by  
2 adding new sections to read:

3 **"§ 58-9.8. Designated hearing officers.**

4           In any contested case under this Chapter, Chapters 57, 57B, or 85C of the  
5 General Statutes, Article 9B or 9C of Chapter 66 of the General Statutes, or Article 9A  
6 of Chapter 143 of the General Statutes, the Commissioner may designate a member of  
7 his staff to serve as a hearing officer. When the Commissioner is unable or elects not to  
8 hear a contested case and elects not to designate a hearing officer to hear a contested  
9 case, he shall apply to the director of the Office of Administrative Hearings for the  
10 designation of an Administrative Law Judge to preside at the hearing of a contested  
11 case. Upon receipt of the application, the Director shall, without undue delay, assign an  
12 Administrative Law Judge to hear the case.

13 **"§ 58-9.9. Restraining orders; criminal convictions.**

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

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

29 **"§ 58-9.10. License surrenders.**

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

38           Sec. 31. G.S. 58-618(c) reads as rewritten:

39           "~~(c) In the event that the action by~~ Whenever the Commissioner is to deny or not  
40 ~~renew~~ denies an initial application for a license, he shall notify the applicant or licensee  
41 ~~and advise, in writing, the applicant or licensee of the reasons for the denial or~~  
42 ~~nonrenewal of the license. Within 30 days of receipt of notification the applicant or~~  
43 ~~licensee may make written demand upon the Commissioner for a hearing to determine~~  
44 ~~the reasonableness of the Commissioner's action. Such hearing shall be scheduled~~

1 within 30 days from the date of receipt of the written demand by the applicant and shall be  
2 held pursuant to the provisions of Article 3A of Chapter 150B."

3 Sec. 32. G.S. 66-49.14 reads as rewritten:

4 **"§ 66-49.14. Hearing on denial of license; ~~judicial review of determination by~~**  
5 **Commissioner.**

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

16 Sec. 33. G.S. 85C-18 reads as rewritten:

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

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

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

28 Sec. 34. G.S. 58-182.3, 58-182.4, 58-182.5, and 58-182.7 are each amended  
29 by substituting ", 58-182.1, and 58-182.9" for "and 58-182.1".

30 Sec. 35. Article 20 of Chapter 58 of the General Statutes is amended by  
31 adding new sections to read:

32 **"§ 58-182.9. Deposits of foreign life insurance companies.**

33 In addition to other requirements of this Chapter, all foreign life insurance  
34 companies shall deposit securities, as specified in G.S. 58-182.3, having a market value  
35 of one hundred thousand dollars (\$100,000) as a prerequisite of doing business in this  
36 State. All foreign life insurance companies shall deposit an additional one hundred  
37 thousand dollars (\$100,000) where such companies cannot show three years of net  
38 operational gains prior to admission. Foreign life insurance companies that are licensed  
39 on or before the effective date of this section shall have one year from that date to  
40 comply with this section.

41 **"§ 58-182.10. Deposits of capital and surplus by domestic insurance companies.**

42 (a) In addition to other requirements of this Chapter, all domestic stock insurance  
43 companies shall deposit their required statutory capital with the Department. Such

1 deposits shall be under the exclusive control of the Department, for the protection of all  
2 policyholders wheresoever situated.

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

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

10 Sec. 36. G.S. 58-79.1(c) is amended by adding a new subdivision to read:

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

16 Sec. 37. G.S. 58-16 reads as rewritten:

17 **"§ 58-16. Examinations to be made.**

18 Before granting certificates of authority to an insurance company to issue policies or  
19 make contracts of insurance the Commissioner shall be satisfied, by such examination  
20 and evidence as he sees fit to make and require, that the company is otherwise duly  
21 qualified under the laws of the State to transact business therein. As often as once in  
22 three years ~~or, in the Commissioner's discretion, as often as once in five years~~ he shall  
23 personally or by his deputy visit each domestic insurance company and thoroughly  
24 inspect and examine its affairs, especially as to its financial condition and ability to  
25 fulfill its obligations and whether it has complied with the laws. He shall also make an  
26 examination of any such company whenever he deems it prudent to do so, or upon the  
27 request of five or more of the stockholders, creditors, policyholders, or persons  
28 pecuniarily interested therein, who shall make affidavit of their belief, with  
29 specifications of their reasons therefor, that the company is in an unsound condition.  
30 Whenever the Commissioner deems it prudent for the protection of policyholders in this  
31 State he shall in like manner visit and examine, or cause to be visited and examined by  
32 some competent person appointed by him for that purpose, any foreign insurance  
33 company applying for admission or already admitted to do business in this State. Any  
34 domestic or foreign company examined under this section shall pay the proper charges  
35 incurred in the examination, including the expenses of the Commissioner or his deputy  
36 and the expenses and compensation of his assistants employed therein. The refusal of  
37 any insurer to submit to examination, or the refusal or failure of an insurer to pay the  
38 expenses of examination upon presentation of a bill therefor by the Commissioner, shall  
39 be grounds for the revocation or refusal of a license. The Commissioner is authorized to  
40 make public any such revocation or refusal of license as he may determine and to give  
41 his reasons therefor. The Commissioner shall promptly institute a civil action to recover  
42 the expenses of examination against any insurer which refuses or fails to pay. For these  
43 purposes the Commissioner or his deputy or persons making the examination shall have  
44 free access to all the books and papers of the insurance company that relate to its

1 business, and to the books and papers kept by any of its agents, or to the books and  
2 papers of any affiliated or subsidiary corporations or partnerships that affect the affairs  
3 or financial condition of said company and may summon, administer oaths to, and  
4 examine as witnesses, the directors, officers, agents, and trustees of any such company,  
5 and any other person, affiliate or subsidiary in relation to its affairs, transactions, and  
6 condition."

7           Sec. 38. Article 2 of Chapter 58 of the General Statutes is amended by  
8 adding a new section to read:

9 **"§ 58-21.4. CPA audits of financial statements.**

10       The Commissioner is authorized to adopt rules to provide for audits and opinions of  
11 insurers' financial statements by certified public accountants. Such rules shall be in  
12 accordance with the NAIC model rule that requires audited financial reports, as  
13 amended."

14           Sec. 39. G.S. 85C-11 reads as rewritten:

15 **"§ 85C-11. Qualification for professional bondsmen and runners.**

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

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

- 22           (1) Is 18 years of age or over;
- 23           (2) Is a resident of this State;
- 24           (3) Is a person of good moral character and has not been convicted of a  
25           felony or any crime involving moral turpitude;
- 26           (4) Has knowledge, training, or experience of sufficient duration and  
27           extent to reasonably satisfy the Commissioner that he possesses the  
28           competence necessary to fulfill the responsibilities of a licensee;
- 29           (5) Has no outstanding bail bond obligations;
- 30           (6) Is not or has not been in violation of any provision of this Chapter or  
31 of Article 26 of Chapter 15A of the General Statutes or of any similar  
32 provision of law of any other state;
- 33           (7) Has not been in any manner disqualified under the laws of this State or  
34 any other state to engage in the bail bond business."

35       Sec. 40. G.S. 85C-17(a) is amended by adding the following new  
36 subdivisions:

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

- 39           (13) For entering into any business association or agreement with  
40 any person, which person is at that time found by the  
41 Commissioner to be in violation of any of the bail bond laws of  
42 this State, or which person has been in any manner disqualified  
43 under the bail bond laws of any other state, whereby such

1                    person has any direct or indirect financial interest in the bail  
2                    bond business of the licensee or applicant.

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

5                    Sec. 41. G.S. 58-254.4(g) reads as rewritten:

6                    "(g) Any policy or contract ~~or of~~ group accident, group health or group accident  
7 and health insurance may provide for readjustment of the rate of premium based on the  
8 experience thereunder at the end of the first year, ~~or of any subsequent year of insurance~~  
9 ~~thereunder, and such readjustment may be made retroactive only for such policy year~~ or at any  
10 time during any subsequent year based upon at least 12 months of experience: Provided  
11 that any such readjustment after the first year shall not be made any more frequently  
12 than once every six months. Any refund under any plan for readjustment of the rate of  
13 premium based on the experience under group policies and any dividend paid under  
14 such policies may be used to reduce the employer's or principal's contribution to group  
15 insurance for the employees of the employer, or the agents of the principal, and the  
16 excess over such contribution by the employer, or principal, shall be applied by the  
17 employer, or principal, for the sole benefit of the employees or agents."

18                    Sec. 42. G.S. 85C-36 reads as rewritten:

19 **"§ 85C-36. Limit on principal amount of bond to be written by professional**  
20 **bondsman.**

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

26                    Sec. 43. G.S. 85C-34 reads as rewritten:

27 **"§ 85C-34. Monthly report required.**

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

37                    Sec. 44. G.S. 143-143.11 is amended by adding a new subsection to read:

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

41                    Sec. 45. G.S. 143-143.13(c) reads as rewritten:

42                    "(c) In addition to the authority to deny, suspend, or revoke a license under this  
43 Article, the Board also has the authority to impose a ~~five hundred dollar (\$500.00)~~ civil  
44 penalty upon any person violating the provisions of this Article. Upon a finding by the

1 Board of a violation of this Article, the Board shall direct the payment of a penalty of  
2 not less than one hundred dollars (\$100.00) nor more than five hundred dollars  
3 (\$500.00). In determining the amount of the penalty, the Board shall consider the  
4 degree and extent of harm caused by the violation, the amount of money that inured to  
5 the benefit of the violator as a result of the violation, whether the violation was  
6 committed willfully, and the prior record of the violator in complying or failing to  
7 comply with laws, rules, or orders applicable to the violator. Each day during which a  
8 violation occurs shall constitute a separate offense. The penalty shall be payable to the  
9 Board, which shall then forward the clear proceeds of which to the State Treasurer for  
10 deposit in the General Fund of the State. Payment of the civil penalty under this section  
11 shall be in addition to payment of any other penalty for a violation of the criminal laws  
12 of this State. Nothing in this subsection shall prevent the Board from negotiating a  
13 mutually acceptable agreement with any person as to the status of the person's license or  
14 certificate or as to any civil penalty."

15 Sec. 46. G.S. 58-9.7 reads as rewritten:

16 **"§ 58-9.7. Civil penalties or restitution for violations; summary suspension of**  
17 **license or certificate.**

18 (a) This section applies to any person who is subject to licensure or certification  
19 under the provisions of this Chapter, General Statutes Chapters 57, 57B or 85C, ~~Articles~~  
20 ~~or Article 9B or 9C of General Statutes Chapter 66, or Article 9B of General Statutes~~  
21 ~~Chapter 143.~~

22 (b) Whenever the Commissioner has reason to believe that any person has  
23 violated any of the provisions of the statutes cited in subsection (a) of this section, and  
24 the violation subjects the license or certification of that person to suspension or  
25 revocation, or whenever the Commissioner has reason to believe that any person has  
26 violated Article 3A of this Chapter, the Commissioner may issue and serve upon that  
27 person a written statement of charges and a written notice of hearing, to be held at a  
28 time and place fixed in the notice. The date for the hearing shall not be less than 10  
29 days after the date of service. It shall be sufficient to give such notice either by  
30 delivering it to the person charged or by sending the notice to the last known address of  
31 that person by certified mail, return receipt requested. At the time and place fixed for  
32 the hearing the person charged shall have an opportunity to answer the charges against  
33 him and present evidence on his behalf. Upon good cause shown, the Commissioner  
34 may permit any adversely affected person to intervene, appear, and be heard at the  
35 hearing by counsel or in person. The Commissioner may consolidate a hearing under  
36 this section with a hearing allowed under G.S. 58-54.6 where there is common subject  
37 matter involved and subject to procedural requirements set out in both sections being  
38 followed.

39 (c) In any case where a hearing pursuant to subsection (b) of this section results  
40 in the findings by the Commissioner of a ~~knowing~~-violation of any of the provisions of  
41 the statutes cited in subsection (a) of this section, and the violation subjects the license  
42 or certification of that person to suspension or revocation, or findings by the  
43 Commissioner of a ~~knowing~~-violation of Article 3A of this Chapter, the Commissioner  
44 may, in addition to or in lieu of suspending or revoking the license or certification, ~~apply~~

1 ~~to a court of competent jurisdiction for an order directing~~ order the payment of a monetary  
2 penalty as provided in subsection (d) of this section or apply to the Superior Court of  
3 Wake County for an order directing payment of restitution as provided in subsection (e)  
4 of this section, or both. Each day during which a violation occurs shall constitute a  
5 separate offense.

6 (d) ~~Upon application by the Commissioner and~~ a finding by the court  
7 Commissioner of a knowing violation as specified in subsection (c) of this section, the  
8 ~~court~~ Commissioner shall direct the payment of a penalty of not less than five one  
9 hundred dollars (\$500.00) (\$100.00) nor more than forty one thousand dollars (\$40,000),  
10 (\$1,000). in the discretion of the court. In determining the amount of the penalty, the  
11 Commissioner shall consider the degree and extent of harm caused by the violation, the  
12 amount of money that inured to the benefit of the violator as a result of the violation,  
13 whether the violation was committed willfully, and the prior record of the violator in  
14 complying or failing to comply with laws, rules, or orders applicable to the violator.  
15 The penalty shall be payable to the Commissioner, who shall then forward the clear  
16 proceeds of which to the State Treasurer for deposit in the General Fund of the State.  
17 Payment of the civil penalty under this section shall be in addition to payment of any  
18 other penalty for a violation of the ~~penal~~ criminal laws of this State.

19 (e) Upon application of the Commissioner and a finding by the court of a  
20 ~~knowing~~ violation as specified in subsection (c) of this section, the court may order the  
21 person who committed the violation to make restitution in an amount that would make  
22 whole any person harmed by the violation.

23 (f) Restitution to any State agency for extraordinary administrative expenses  
24 incurred in the investigation and hearing of the violation may also be ordered by the  
25 court in such amount that would reimburse the agency for the expenses.

26 (g) Nothing in this section shall prevent the Commissioner from negotiating a  
27 mutually acceptable agreement with any person as to the status of the person's license or  
28 certificate or as to any civil penalty or restitution.

29 (h) Notwithstanding subsection (b) of this section, if the Commissioner finds that  
30 the public health, safety, or welfare requires emergency action and incorporates this  
31 finding in his order, summary suspension of a license or certificate may be ordered  
32 effective on the date specified in the order or on service of the certified copy of the  
33 order at the last known address of the licensee, whichever is later, and effective during  
34 the proceedings to suspend, revoke, or refuse renewal provided for in subsection (b) of  
35 this section. The proceedings shall be promptly commenced and determined."

36 Sec. 47. G.S. 58-56.2(b) reads as rewritten:

37 "(b) ~~If the Commissioner refuses to issue a license, he shall notify the applicant of~~  
38 ~~the denial, return to the applicant the sum paid as a license fee, but retain the~~  
39 ~~examination fee to cover the cost of examining the applicant. Whenever the~~  
40 Commissioner denies an initial application for a license, he shall notify the applicant  
41 and advise, in writing, the applicant of the reasons for the denial of the license. Within  
42 30 days of receipt of notification the applicant may make written demand upon the  
43 Commissioner for a hearing to determine the reasonableness of the Commissioner's



1 action. Such hearing shall be scheduled within 30 days from the date of receipt of the  
2 written demand."

3 Sec. 48. G.S. 58-248.26(7) reads as rewritten:

4 "(7) 'Motor vehicle insurance' means direct insurance against liability arising out  
5 of the ownership, operation, maintenance or use of a motor vehicle for bodily injury  
6 including death and property damage and includes medical payments and uninsured  
7 motorist coverages.

8 With respect to motor carriers who are subject to the financial responsibility  
9 requirements established under the Motor Carrier Act of 1980, the term, 'motor vehicle  
10 insurance' includes coverage with respect to environmental restoration. As used in this  
11 subsection the term, 'environmental restoration' means restitution for the loss, damage,  
12 or destruction of natural resources arising out of the accidental discharge, dispersal,  
13 release, or escape into or upon the land, atmosphere, water course, or body of water of  
14 any commodity transported by a motor carrier. Environmental restoration includes the  
15 cost of removal and the cost of necessary measures taken to minimize or mitigate  
16 damage ~~or potential for damage~~ to human health, the natural environment, fish, shellfish,  
17 and wildlife."

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

20 **"§ 58-150.1. Amendments to documents.**

21 Any change in or amendment to any document required to be filed under G.S.  
22 58-150 shall be promptly filed with the Commissioner."

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

24 **"§ 58-73. Manner of creating such corporations.**

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

1 corporations, and the same fees to the Secretary of State, the Secretary of State shall  
2 cause the certificate and accompanying certificates to be recorded in his office, and shall  
3 issue a certificate in the following form:

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

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

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

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

31 Sec. 51. G.S. 58-260.3 is amended by adding the following subsection:

32 "(h) In the event of the insolvency of an employer or insurance fiduciary who has  
33 violated this section, any person specified in subsection (e) of this section shall have a  
34 lien upon the assets of such employer or insurance fiduciary for the expenses or benefits  
35 specified in subsection (e) of this section. With respect to personal property within the  
36 estate of the insolvent employer or insurance fiduciary, such lien shall have priority over  
37 perfected and unperfected security interests. With respect to real property within the  
38 estate of the insolvent employer or insurance fiduciary, such lien shall be deemed to be  
39 prior to any liens or encumbrances attaching to the property subsequent to the date or  
40 dates such expenses were incurred or the date such benefit accrued."

41 Sec. 52. G.S. 58-626(b) reads as rewritten:

42 "(b) No insurer, agent, broker, or limited representative shall knowingly charge to  
43 or demand or receive from an applicant for insurance any money or other consideration  
44 in return for the processing of applications or other forms or for the rendering of

1 services associated with the issuance or renewal of a contract of insurance, which money  
2 or other consideration is in addition to the ~~filed and approved~~ premium for such contract,  
3 unless the applicant consents in writing before any services are rendered."

4 Sec. 53. G.S. 58-77(5)d, 58-124.28, 58-131.60, and 58-472(a) are each  
5 amended by substituting "six adjacent counties in this State" for "five counties in this  
6 State that are adjacent to the county in which its home office is located".

7 Sec. 54. G.S. 20-279.32 reads as written:

8 **"§ 20-279.32. Exceptions.**

9 This Article, except its provisions as to the filing of proof of financial responsibility  
10 by a common carrier and its drivers, does not apply to any vehicle operated under a  
11 permit or certificate of convenience or necessity issued by the North Carolina Utilities  
12 Commission, or by the Interstate Commerce Commission, if public liability and  
13 property damage insurance for the protection of the public is required to be carried upon  
14 it. This Article does not apply to any motor vehicle owned by the State of North  
15 Carolina, nor does it apply to the operator of a vehicle owned by the State of North  
16 Carolina who becomes involved in an accident while operating the state-owned vehicle  
17 if the Commissioner determines that the vehicle at the time of the accident was probably  
18 being operated in the course of the operator's employment as an employee or officer of  
19 the State. This Article does not apply to any motor vehicle owned by a county or  
20 municipality of the State of North Carolina, nor does it apply to the operator of a vehicle  
21 owned by a county or municipality of the State of North Carolina who becomes  
22 involved in an accident while operating such vehicle in the course of the operator's  
23 employment as an employee or officer of the county or municipality. This Article does  
24 not apply to the operator of a vehicle owned by a political subdivision, other than a  
25 county or municipality, of the State of North Carolina who becomes involved in an  
26 accident while operating such vehicle if the Commissioner determines that the vehicle at  
27 the time of the accident was probably being operated in the course of the operator's  
28 employment as an employee or officer of the subdivision providing that the  
29 Commissioner finds that the political subdivision has waived any immunity it has with  
30 respect to such accidents and has in force an insurance policy or other method of  
31 satisfying claims which may arise out of the accident. This Article does not apply to  
32 any motor vehicle owned by the federal government, nor does it apply to the operator of  
33 a motor vehicle owned by the federal government who becomes involved in an accident  
34 while operating the government-owned vehicle if the Commissioner determines that the  
35 vehicle at the time of the accident was probably being operated in the course of the  
36 operator's employment as an employee or officer of the federal government."

37 Sec. 55. G.S. 58-251.2(a) is amended by deleting the third paragraph, which  
38 begins with "An insurer" and ends with "in force".

39 Sec. 56. G.S. 58-254.7 is amended by designating the present five paragraphs  
40 as subsections (a) through (e) and by adding a new subsection (f) to read:

41 "(f) An insurer may increase rates chargeable on policies subject to this section,  
42 other than noncancellable policies, with the approval of the Commissioner if the  
43 Commissioner finds that such rates are not excessive, not inadequate, and not unfairly  
44 discriminatory; and exhibit a reasonable relationship to the benefits provided by such

1 policies. Such approved rates shall be guaranteed by the insurer, as to the policyholders  
2 thereby affected, for a period of not less than 12 months; or as an alternative to the  
3 insurer giving such guarantee, such approved rates may be applicable to all  
4 policyholders at one time if the insurer chooses to apply for such relief with respect to  
5 such policies no more frequently than once in any 12-month period. Such rates shall be  
6 applicable to all policies of the same type; provided that no rate increase may become  
7 effective for any policy unless the insurer has given the policyholder written notice of  
8 the rate revision 45 days prior to the effective date of the revision. The policyholder  
9 thereafter must pay the revised rate in order to continue the policy in force. The  
10 Commissioner may promulgate reasonable rules, after notice and hearing, to require the  
11 submission of supporting data and such information as is deemed necessary to  
12 determine whether such rate revisions meet these standards."

13 Sec. 57. G.S. 57-4 is amended by rewriting the second sentence of the second  
14 paragraph to read:

15 "The Commissioner may refuse approval if he finds that such rates are excessive,  
16 inadequate, or unfairly discriminatory; or do not exhibit a reasonable relationship to the  
17 benefits provided by such contracts."

18 Sec. 58. G.S. 57-4.1 is amended by inserting the following after the first  
19 sentence:

20 "Such rate revision or new rate schedule shall be guaranteed by the insurer, as to the  
21 contract and certificate holders thereby affected, for a period of not less than 12 months;  
22 or with respect to individual subscriber contracts as an alternative to giving such  
23 guarantee, such rate revision or new rate schedule may be made applicable to all  
24 individual contracts at one time if the corporation chooses to apply for such relief with  
25 respect to such contracts no more frequently than once in any 12-month period. Such  
26 rate revision or new rate schedule shall be applicable to all contracts of the same type;  
27 provided that no rate revision or new rate schedule may become effective for any  
28 contract holder unless the corporation has given written notice of the rate revision or  
29 new rate schedule not less than 30 days prior to the effective date of such revision or  
30 new rate schedule. The contract holder thereafter must pay the revised rate or new rate  
31 schedule in order to continue the contract in force. The Commissioner may promulgate  
32 reasonable rules, after notice and hearing, to require the submission of supporting data  
33 and such information as is deemed necessary to determine whether such rate revisions  
34 meet these standards."

35 Sec. 59. G.S. 57B-8(b)(2) is amended by deleting the period at the end and  
36 by adding the following:

37 "; and must exhibit a reasonable relationship to the benefits provided by the evidence  
38 of coverage. Such premiums or any revisions thereto shall be guaranteed, as to every  
39 enrollee covered under the same category of enrollee coverage, for a period of not less  
40 than 12 months; or as an alternative to giving such guarantee with respect only to  
41 nongroup enrollee coverage, such premium or premium revisions may be made  
42 applicable to all similar category of enrollee coverage at one time if the health  
43 maintenance organization chooses to apply for such premium revision with respect to  
44 such categories of coverages no more frequently than once in any 12-month period.

1 Such premium revision shall be applicable to all categories of nongroup enrollee  
2 coverage of the same type; provided that no premium revision may become effective for  
3 any category of enrollee coverage unless the corporation has given written notice of the  
4 premium revision 45 days prior to the effective date of such revision. The enrollee  
5 thereafter must pay the revised premium in order to continue the contract in force. The  
6 Commissioner may promulgate reasonable rules, after notice and hearing, to require the  
7 submission of supporting data and such information as is deemed necessary to  
8 determine whether such rate revisions meet these standards."

9 Sec. 60. G.S. 58-576(b) reads as rewritten:

10 "(b) 'Retrospective compensation agreement' means any such arrangement,  
11 agreement, or contract having as its purpose the actual or constructive retention by ~~the a~~  
12 domestic insurer of a fixed proportion of the gross premiums, with the balance of the  
13 premiums, retained actually or constructively by the agent or the producer of the  
14 business, who assumes to pay therefrom all losses, all subordinate commissions, loss  
15 adjustment expenses and his profit, if any, with other provisions of such arrangement,  
16 agreement, or contract auxiliary or incidental to such purpose."

17 Sec. 61. G.S. 58-577(a) reads as rewritten:

18 **"§ 58-577. Management contracts.**

19 (a) All agreements or contracts under which any person is delegated management  
20 duties or control of ~~an a~~ domestic insurer, or which transfer a substantial part of any  
21 major function of ~~an a~~ domestic insurer such as adjustment of losses, production of  
22 business, investment of assets, or general servicing of the insurer's business must be  
23 filed with the Commissioner on or before the effective date of such contract or  
24 agreement."

25 Sec. 62. G.S. 58-579 reads as rewritten:

26 **"§ 58-579. Supplement to financial statement.**

27 Any domestic insurer that has a management contract shall file with its financial  
28 statement as supplement on forms prescribed by the Commissioner which discloses the  
29 following: Salaries, commissions, or any valuable consideration paid to each officer  
30 and director of the management company or to any shareholder who owns, directly or  
31 indirectly, ten percent (10%) of the shares of either the managed insurer or the  
32 management company. Any changes in the officers or directors of the managing  
33 company are to be reported to the Commissioner."

34 Sec. 63. The title of Article 1 of Chapter 118 of the General Statutes and G.S.  
35 118-1 and G.S. 118-2 through 118-5 read as rewritten:

36 **"ARTICLE 1.**

37 **"FUND DERIVED FROM ~~FIRE~~-INSURANCE COMPANIES.**

38 **"§ 118-1. ~~Fire-insurance~~-Insurance companies to report premiums collected.**

39 Every ~~fire~~-insurance company, corporation, or association doing business in any  
40 town or city in North Carolina that has, or may hereafter have, a regularly organized fire  
41 department under the control of the mayor and city council or other governing body of  
42 said town or city, and which has in serviceable condition for fire duty apparatus and  
43 equipment amounting in value to one thousand dollars (\$1,000) or more, and which  
44 enforces the fire laws to the satisfaction of the Insurance Commissioner, shall return to

1 the Insurance Commissioner of the State of North Carolina a just and true account of all  
2 premiums collected and received from all fire and lightning insurance business done  
3 within the limits of such towns and cities during the year ending December 31, or such  
4 portion thereof as ~~they~~it may have transacted such business in such towns and cities.  
5 Such companies, corporations, or associations shall make said returns within 60 days  
6 from and after the thirty-first day of December of each year.

7 **"§ 118-2. Tax on receipts for premiums.**

8 Every ~~fire~~-insurance company, corporation, or association as aforesaid shall, within  
9 75 days from December 31 of each year, deliver and pay to the State Insurance  
10 Commissioner the sum of fifty cents (50¢) out of and from every one hundred dollars  
11 (\$100.00), and at that rate, upon the amount of all premiums written on fire and  
12 lightning policies covering property situated within the limits of such towns and cities  
13 during the year ending December 31 ~~in each year~~, or for such portion of each year as said  
14 company, corporation, or association shall have done business in said towns and cities.

15 **"§ 118-3. Insurance Commissioner to investigate returns and collect tax.**

16 Every such company, corporation, or association shall make accurate returns of all  
17 business done, ~~both~~ on fire and lightning insurance, covering property situated within  
18 the limits of such towns and cities; and in case any fraud, misrepresentation, or mistake  
19 of any returns, as provided for in this Article, be apparent, it shall be the duty of the  
20 Insurance Commissioner to investigate such returns and collect the amount which he  
21 shall find to be due.

22 **"§ 118-4. Penalty for failure to report and pay tax.**

23 Every ~~fire~~-insurance company, association, or corporation aforesaid which shall  
24 knowingly or willfully fail or neglect to report or pay over any of the moneys due on  
25 premiums as aforesaid, at the times and in the manner specified in this Article, or shall  
26 be found upon examination to have made a false return of business done by ~~it~~them,  
27 shall, after notice and opportunity for a hearing, for each offense forfeit and pay to the  
28 Commissioner of Insurance the sum of ~~three hundred dollars (\$300.00)~~ one thousand  
29 dollars (\$1,000) for the use and benefit of the fire department of such town or city, ~~to be~~  
30 ~~recovered in a civil action in the name of the town or city.~~

31 **"§ 118-5. Disbursement of funds by Insurance Commissioner.**

32 The Insurance Commissioner shall deduct the sum of three percent (3%) from the  
33 money so collected from the insurance companies, corporations, or association, as  
34 aforesaid, and pay the same over to the treasurer of the State Firemen's Association for  
35 general purposes. The Insurance Commissioner shall deduct the sum of two percent  
36 (2%) from the money so collected from the insurance companies, corporations, or  
37 associations, as aforesaid, and retain the same in the budget of the Department of  
38 Insurance for the purpose of administering the disbursement of funds by the board of  
39 trustees in accordance with the provisions of G.S. 118-7. The remainder of the money  
40 so collected from the insurance companies, corporations, or associations, as aforesaid,  
41 doing business in the ~~several~~ towns and cities in the State having or that may hereafter  
42 have organized fire departments as provided in this Article, said Insurance  
43 Commissioner shall pay to the treasurer of each town or city to be held by him as a  
44 separate and distinct fund, and he shall immediately pay the same to the treasurer of the

1 local board of trustees upon his election and qualification, for the use of the board of  
2 trustees of the firemen's local relief fund in each town or city, which board shall be  
3 composed of five members, residents of said city or town as hereinafter provided for, to  
4 be used by ~~them~~ it for the purposes as named in G.S. 118.7."

5 Sec. 64. G.S. 58-57.3(a) reads as rewritten:

6 "(a) No insurance premium finance company, and no employee of such a  
7 company shall pay, allow, or offer to pay or allow in any manner whatsoever to an  
8 insurance agent or any employee of an insurance agent, or to any other person, or as an  
9 inducement to the financing of an insurance policy with the insurance premium finance  
10 company or after any such policy has been financed, any rebate whatsoever, either from  
11 the service charge for financing specified in the insurance premium finance agreement  
12 or otherwise, or shall give or offer to give any valuable consideration or inducement of  
13 any kind directly or indirectly, other than an article of merchandise not exceeding one  
14 dollar (\$1.00) in value which shall have thereon the advertisement of the insurance  
15 premium finance company; but an insurance premium finance company may purchase  
16 or otherwise acquire an insurance premium finance agreement provided that it conforms  
17 to this Article in all respects, from another insurance premium finance company with or  
18 without recourse against the insurance premium finance company on such terms and  
19 conditions as may be mutually agreed upon and such terms and conditions shall be  
20 subject to the approval of the Commissioner. A premium finance company may sell or  
21 transfer ownership of any premium finance agreement or power of attorney to cancel an  
22 insurance contract to another premium finance company as long as the terms and  
23 conditions of the sale or transfer are approved in writing by the Commissioner. Any  
24 consideration for such sale or transfer does not constitute a rebate or an inducement  
25 within the meaning of this section. The transferee company in such sale or transfer has  
26 the option of using the premium finance contract and forms of either the transferor  
27 company or of the transferee company, provided such forms have been approved by the  
28 Commissioner."

29 Sec. 65. G.S. 28A-19-3(i) reads as rewritten:

30 "(i) Nothing in this section shall bar:

- 31 (1) Any claim alleging the liability of the decedent or personal  
32 representative; or  
33 (2) Any proceeding or action to establish the liability of the decedent or  
34 personal representative; or  
35 (3) The recovery on any judgment against the decedent or personal  
36 representative

37 to the extent that the decedent or personal representative is protected by insurance  
38 coverage with respect to such claim, proceeding or judgment or where there is  
39 underinsured or uninsured motorist coverage that might extend to such claim,  
40 proceeding, or judgment."

41 Sec. 66. G.S. 58-616(2) is repealed.

42 Sec. 67. In the event any provision of this act is held to be invalid by any  
43 court of competent jurisdiction, the court's holding as to that provision shall not affect

1 the validity or operation of other provisions of this act; and to that end the provisions of  
2 this act are severable.

3           Sec. 68. Section 9 of this act shall become effective October 1, 1989.  
4 Section 58 of this act shall become effective January 1, 1990. The remainder of this act  
5 is effective upon ratification.