

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 586*

Insurance Committee Substitute Adopted 5/6/93

House Committee Substitute Favorable 7/20/93

Short Title: Insurance Technical Amendments.

(Public)

Sponsors:

Referred to:

March 29, 1993

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AMENDMENTS, CLARIFICATIONS, AND CORRECTIONS IN VARIOUS INSURANCE AND INSURANCE-RELATED LAWS AND TO MAKE CHANGES TO THE LAWS ON SERVICE AGREEMENTS FOR MOTOR VEHICLES AND HOME APPLIANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-2-165 reads as rewritten:

"§ 58-2-165. Annual, semiannual, monthly, or quarterly statements to be filed with Commissioner.

(a) Every insurance company shall file in the Commissioner's office, on or before March 1 of each year, a statement showing the business standing and financial condition of the company, association, or order on the preceding December 31, signed and sworn to by the chief managing agent or officer thereof, before the Commissioner or some officer authorized by law to administer oaths. Provided, the Commissioner may, for good and sufficient cause shown by an applicant company, extend the filing date of the company's annual statement, for a reasonable period of time, not to exceed 30 days. However, In addition, the Commissioner may require any insurance company, association, or order to file its statement ~~semiannually or quarterly~~ semiannually, quarterly, or monthly.

(b) The Commissioner may require statements under this section, G.S. 58-2-170, ~~G.S. 58-2-175,~~ and G.S. 58-2-190 to be filed in a format that can be read by electronic

1 data processing equipment, and may require these readable statements to be filed on a
2 monthly basis. equipment.

3 (c) All statements filed under this section must be prepared in accordance with
4 the appropriate NAIC Annual Statement Instructions Handbook and pursuant to the
5 NAIC Accounting Practices and Procedures Manual and on the NAIC Model Financial
6 Statement Blank, unless further modified by the Commissioner as the Commissioner
7 considers to be appropriate."

8 Sec. 2. G.S. 58-4-5 reads as rewritten:

9 **"§ 58-4-5. Filing requirements.**

10 (a) Each domestic, foreign, and alien insurer that is authorized to transact
11 insurance in this State shall file with the NAIC a copy of its financial statements
12 required by G.S. 58-2-165, applicable rules, and legal directives and bulletins issued by
13 the Department. The statements shall, in the Commissioner's discretion, be filed
14 annually, semiannually, ~~or quarterly,~~ or monthly and shall be filed in a form or format
15 prescribed or permitted by the Commissioner. The Commissioner may require the
16 statements to be filed in a format that can be read by electronic data processing
17 equipment. Any amendments and addenda to the financial statement that are
18 subsequently filed with the Commissioner shall also be filed with the NAIC.

19 (b) Foreign insurers that are domiciled in a state that has a law or regulation
20 substantially similar to this Article shall be deemed to be in compliance with this
21 section."

22 Sec. 3. G.S. 58-5-55 reads as rewritten:

23 **"§ 58-5-55. Deposits of capital and surplus by domestic insurance companies.**

24 (a) In addition to other requirements of Articles 1 through 64 of this Chapter, all
25 domestic stock insurance companies shall deposit their required statutory capital with
26 the Department. Such deposits shall be under the exclusive control of the Department,
27 for the protection of ~~all policyholders wheresoever situated.~~ policyholders.

28 (b) In addition to other requirements of Articles 1 through 64 of this Chapter,
29 all domestic mutual insurance companies shall deposit at least fifty percent (50%) of
30 their minimum required surplus with the Department, with the amount of the deposit to
31 be determined by the Commissioner. Such deposits shall be under the exclusive control
32 of the Department, for the protection of ~~all policyholders wheresoever situated.~~
33 policyholders."

34 Sec. 4. The final paragraph of G.S. 58-7-35 reads as rewritten:

35 "Any Subject to G.S. 58-8-5, any proposed change in or amendment to the articles of
36 incorporation, charter, or bylaws incorporation shall be promptly filed with the
37 Commissioner. Commissioner, who shall examine the change. If the Commissioner
38 approves the change, the Commissioner shall place a certificate of approval on the
39 change, and forward it to the Secretary of State."

40 Sec. 5. G.S. 58-7-45 reads as rewritten:

41 **"§ 58-7-45. Bylaws; classification and election of ~~directors.~~ directors; amendments.**

42 (a) A domestic company may adopt bylaws for the conduct of its business that
43 are not repugnant to law or its charter, articles of incorporation and therein provide for
44 the division of its board of directors into two, three, or four classes, and the election

1 thereof at its annual meetings so that the members of one class only shall retire and their
2 successors be chosen each year. Vacancies in any such class may be filled by election
3 by the board for the unexpired term.

4 (b) Any change in the bylaws of a domestic company shall be promptly filed
5 with the Commissioner."

6 Sec. 6. G.S. 58-7-183(b) reads as rewritten:

7 "(b) In no case shall the investments authorized under this section being held by
8 an insurer be greater than the amount by which the insurer's policyholders' surplus
9 exceeds the minimum ~~reserves and policyholders' surplus~~ required to be maintained."

10 Sec. 7. G.S. 58-13-5 reads as rewritten:

11 **"§ 58-13-5. Purposes.**

12 The purposes of this Article are to require insurers to maintain unencumbered assets
13 in amounts equal to ~~reserve-policyholder-related~~ liabilities and minimum required capital
14 and minimum required surplus; to provide preferential claims against insurers' assets in
15 favor of owners, beneficiaries, assignees, and holders of insurance policies and
16 certificates; and to prevent the pledging, hypothecation, or encumbrance of assets
17 without a prior written order of the Commissioner."

18 Sec. 8. G.S. 58-13-15(4) reads as rewritten:

19 "(4) ~~'Reserve-Policyholder-related~~ liabilities' means those liabilities that are
20 required to be established by an insurer for all of its outstanding
21 insurance policies in accordance with Articles 1 through 64 of this
22 Chapter and G.S. 58-65-95."

23 Sec. 9. G.S. 58-13-20(a) reads as rewritten:

24 "(a) This Article does not apply to those reserve assets of an insurer that are held,
25 deposited, pledged, hypothecated, or otherwise encumbered as provided in this section
26 to secure, offset, protect, or meet those ~~reserve-policyholder-related~~ liabilities of the
27 insurer that are established, incurred, or required under the provisions of a reinsurance
28 agreement whereby the insurer has reinsured the insurance policy liabilities of a ceding
29 insurer, provided:

- 30 (1) The ceding insurer and the reinsurer are both licensed to transact
31 business in this State;
- 32 (2) Pursuant to a written agreement between the ceding insurer and the
33 reinsurer, reserve assets substantially equal to the ~~reserve-policyholder-~~
34 related liabilities required to be established by the reinsurer on the
35 reinsured business are either (i) deposited by or are withheld from the
36 reinsurer and are in the custody of the ceding insurer as security for the
37 payment of the reinsurer's obligations under the reinsurance
38 agreement, and such assets are held subject to withdrawal by and
39 under the separate or joint control of the ceding insurer, or (ii)
40 deposited and held in trust account for that purpose and under those
41 conditions with a State or national bank domiciled in this State."

42 Sec. 10. G.S. 58-13-25 reads as rewritten:

43 **"§ 58-13-25. Prohibition of hypothecation.**

1 (a) Every insurer subject to this Article shall at all times have and maintain free
2 and unencumbered reserve assets equal to an amount that is at least ten percent (10%)
3 more than the total of its ~~reserve-policyholder-related~~ liabilities and its required
4 minimum capital and minimum surplus and shall not pledge, hypothecate, or otherwise
5 encumber those reserve assets. The Commissioner, upon application made to the
6 Commissioner, may issue a written order approving the pledging, hypothecation, or
7 encumbrance of any of the assets of an insurer not otherwise prohibited upon a finding
8 that the pledging, hypothecation, or encumbrance will not adversely affect the insurer's
9 solvency.

10 (b) Every insurer shall file, along with ~~its~~ any statement filed under G.S. 58-2-
11 165, a statement sworn to by the chief executive officer of the insurer that: (i) Title to
12 assets in an amount equal to the ~~reserve-policyholder-related~~ liabilities and minimum
13 required capital and minimum required surplus of the insurer that are not pledged,
14 hypothecated, or otherwise encumbered is vested in the insurer; (ii) the only assets of
15 the insurer that are pledged, hypothecated, or otherwise encumbered are as identified
16 and reported in the sworn statement and no other assets of the insurer are pledged,
17 hypothecated, or otherwise encumbered; and (iii) the terms and provisions of the
18 transaction of the pledge, hypothecation, or encumbrance are as reported in the sworn
19 statement.

20 (c) Any person that accepts a pledge, hypothecation, or encumbrance of any asset
21 of an insurer, as security for a debt or other obligation of the insurer, not in accordance
22 with this Article, is deemed to have accepted the asset subject to a superior, preferential,
23 and automatically perfected lien in favor of claimants: Provided, that said lien does not
24 apply to the assets of an insurer in a delinquency proceeding under Article 30 of this
25 Chapter if the Commissioner or the court, whichever is appropriate, approves the
26 pledge, hypothecation, or encumbrance of the assets.

27 (d) In the event of the liquidation of any insurer subject to this Article, claimants
28 of the insurer shall have a prior and preferential claim against all assets of the insurer
29 except those that have been pledged, hypothecated, or encumbered in accordance with
30 this Article. Subject to Article 30 of this Chapter, all claimants have equal status; and
31 their prior and preferential claims are superior to any claim or cause of action against
32 the insurer by any other person."

33 Sec. 11. G.S. 58-19-10(b) reads as rewritten:

34 "(b) In addition to investments in common stock, preferred stock, debt obligations,
35 and other securities permitted under all other sections of Articles 1 through 64 of this
36 Chapter, a domestic insurer may also:

- 37 (1) Invest, in common stock, preferred stock, debt obligations, and other
38 securities of one or more subsidiaries, amounts that do not exceed the
39 lesser of ten percent (10%) of such insurer's admitted assets or fifty
40 percent (50%) of such insurer's surplus as regards policyholders,
41 provided that after such investments, the insurer's surplus as regards
42 policyholders will be reasonable in relation to the insurer's outstanding
43 liabilities and adequate to its financial needs. In calculating the
44 amount of such investments, investments in domestic or foreign

insurance subsidiaries shall be excluded, and there shall be included:
 (i) total net monies or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and (ii) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation;

(2) Invest any amount in common stock, preferred stock, debt ~~obligation~~ obligations and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer; provided that such subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in subdivision (b)(1) of this section or in Article 7 of this Chapter applicable to the insurer. For the purposes of this section, 'the total investment of the insurer' includes: (i) any direct investment by the insurer in an asset; and (ii) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of such subsidiary.

(3) With the approval of the Commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries; provided that after such investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs."

Sec. 12. G.S. 58-19-15(e) reads as rewritten:

"(e) The public hearing referred to in subsection (d) of this section shall be held within 120 days after the statement required by subsection (a) of this section is filed, and the Commissioner shall give at least 30 days notice of the hearing to the person filing the statement, to the insurer, and to such other persons as may be designated by the Commissioner. The Commissioner shall make a determination as expeditiously as it reasonably practicable after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by the hearing shall have the right to present evidence, examine and cross-examine witnesses, and offer oral or written arguments; and in connection therewith shall be entitled to conduct discovery proceedings at any time after the statement is filed with the Commissioner under this section and in the same manner as is presently allowed in the superior courts of this State. In connection with discovery proceedings authorized by this section, the Commissioner may issue such protective orders and other orders governing the timing

1 and scheduling of discovery proceedings as might otherwise have been issued by a
2 superior court of this State in connection with a civil proceeding. If any party fails to
3 make reasonable and adequate response to discovery on a timely basis or fails to comply
4 with any order of the Commissioner with respect to discovery, the Commissioner on the
5 Commissioner's own motion or on motion of any other party or person may order that
6 the hearing be postponed, recessed, convened, or reconvened, as the case may be,
7 following proper completion of discovery and reasonable notice to the person filing the
8 statement, to the insurer, and to such other persons as may be designated by the
9 Commissioner."

10 Sec. 13. G.S. 58-19-25(c) reads as rewritten:

11 "(c) No information need be disclosed on the registration statement filed pursuant
12 to subsection (b) of this section if such information is not material for the purposes of
13 this section. Unless the Commissioner by rule or order provides otherwise, all sales,
14 purchases, exchanges, loans or extensions of credit, investments, or guarantees
15 involving one-half of one percent (1/2%) or less of an insurer's admitted assets as of the
16 ~~31st day of December next preceding~~ December 31 are not material for the purposes of
17 this section."

18 Sec. 14. G.S. 58-19-50(a) reads as rewritten:

19 "(a) Any person failing, without just cause, to file any registration statement as
20 required in this Article shall pay, after notice and hearing, a civil penalty of one hundred
21 dollars (\$100.00) for each day's delay, not to exceed a total penalty of one thousand
22 dollars (\$1,000), to the Commissioner, who shall forward the clear proceeds to the
23 General Fund of this State."

24 Sec. 15. G.S. 58-26-1(b) reads as rewritten:

25 "(b) Such companies shall be subject to:

- 26 (1) The same capital, surplus and investment requirements as govern the
27 formation and operation of domestic stock casualty companies.
28 (2) The same deposit requirements governing the operation of other ~~state~~
29 domestic or foreign casualty companies in this State; and
30 (3) Repealed by Session Laws 1985, c. 666, s. 43."

31 Sec. 16. G.S. 58-23-40 reads as rewritten:

32 "**§ 58-23-40. Pools not covered by guaranty ~~associations or solvency funds.~~**
33 **associations.**

34 The provisions of Articles 48 and 62 of this Chapter and of ~~Articles 3 and Article 4~~ of
35 Chapter 97 of the General Statutes do not apply to any risks retained by local
36 governments pursuant to this Article."

37 Sec. 17. G.S. 58-26-10 reads as rewritten:

38 "**§ 58-26-10. Financial statements and licenses required.**

39 Title insurance companies are subject to G.S. ~~58-2-131, 58-2-132, 58-2-133, 58-2-~~
40 ~~165-58-2-165, and 58-2-180~~ 58-2-180, and 58-6-5. The Commissioner may require title
41 insurance companies to separately report their experience in insuring titles and in
42 insuring closing services. The Commissioner shall annually license such companies and
43 their agents, ~~and have the same power and authority to visit and examine such corporations as~~
44 ~~he has in the case of other domestic insurance companies, and the duties and liabilities of such~~

1 corporations and their agents in reference to such examinations are the same as those of other
2 domestic insurance companies. agents."

3 Sec. 18. G.S. 58-26-15 reads as rewritten:

4 "**§ 58-26-15. Investment of capital. Limitation of risk.**

5 ~~Any real estate title insurance company having a capital stock of more than fifty~~
6 ~~thousand dollars (\$50,000), may, with the consent of the Commissioner, after investing~~
7 ~~fifty thousand dollars (\$50,000) of the capital, as provided in Articles 1 through 64 of~~
8 ~~this Chapter, invest not to exceed one fourth of the total capital stock in abstract or title~~
9 ~~plants, and no such company.~~ No real estate title insurance company shall guarantee or
10 insure in any one risk on real property located in North Carolina more than forty percent
11 (40%) of its combined capital and surplus without first having the approval of the
12 Commissioner, which approval shall be endorsed upon the policy."

13 Sec. 19. G.S. 58-26-20 reads as rewritten:

14 "**§ 58-26-20. Unearned premium reserve.**

15 Every domestic title insurance company shall, in addition to other reserves, establish
16 and maintain a reserve to be known as the 'unearned premium reserve' for title
17 insurance, which shall at all times and for all purposes be considered and constitute
18 unearned portions of the original risk premiums and shall be charged as a reserve
19 liability of such title insurance company in determining its financial conditions. ~~While~~
20 ~~said sums are so reserved they.~~ The unearned premium reserve shall be withdrawn from the
21 use of the insurer for its general purposes and impressed with a trust placed in a trust
22 account, as approved by the Commissioner, in favor of the holders of title policies and
23 held available for reinsurance of the title policies in the event of insolvency of the
24 insurer. Nothing herein contained shall preclude such an insurer from investing said
25 reserve in investments authorized by law for such an insurer, and the income from such
26 invested reserve shall be included in the general income of the insurer to be used by
27 such insurer for any lawful purpose."

28 Sec. 20. G.S. 58-28-5(a) reads as rewritten:

29 "(a) Except as hereinafter provided, it shall be unlawful for any company to enter
30 into a contract of insurance as an insurer or to transact insurance business in this State as
31 set forth in G.S. 58-28-10, without a certificate of authority issued by the
32 Commissioner. This section shall not apply to the following acts or transactions:

- 33 (1) The procuring of a policy of insurance upon a risk within this State
34 where the applicant is unable to procure coverage in the open market
35 with admitted companies and is otherwise in compliance with Article
36 21 of this Chapter;
- 37 (2) Contracts of reinsurance; but not including assumption reinsurance
38 transactions, whereby the reinsuring company succeeds to all of the
39 liabilities of and supplants the ceding company on the insurance
40 contracts that are the subject of the transaction, unless prior approval
41 has been obtained from the Commissioner;
- 42 (3) Transactions in this State involving a policy lawfully solicited, written
43 and delivered outside of this State covering only subjects of insurance
44 not resident, located or expressly to be performed in this State at the

1 time of issuance, and which transactions are subsequent to the issuance
2 of such policy;

- 3 (4) Transactions in this State involving group life insurance, group
4 annuities, or group, blanket, or franchise accident and health insurance
5 where the master policy of such insurance was lawfully issued and
6 delivered in a state where the company was authorized to transact
7 business;
- 8 (5) Transactions in this State involving all policies of insurance issued
9 prior to July 1, 1967;
- 10 (6) The procuring of contracts of insurance issued to a nuclear insured;
- 11 (7) Insurance independently procured, as specified in subsection (b) of this
12 section;
- 13 (8) Insurance on vessels or craft, their cargoes, marine builders' risks,
14 marine protection and indemnity, or other risks commonly insured
15 under marine insurance policies, as distinguished from inland marine
16 insurance policies."

17 Sec. 21. G.S. 58-31-55 reads as rewritten:

18 **"§ 58-31-55. Insurance and official fidelity bonds for State agencies to be placed by**
19 **Department; exception; costs of placement.**

20 Except as provided in G.S. 58-32-15, all insurance and all official fidelity and surety
21 bonds authorized for State departments, institutions, and agencies shall be effected and
22 placed by the Department, and the cost of such placement shall be paid by the
23 ~~Department, State department,~~ institution, or agency involved upon bills rendered to and
24 approved by the Commissioner."

25 Sec. 22. G.S. 58-33-25(c) reads as rewritten:

26 "(c) An agent or broker may be licensed for the following kinds of insurance:

- 27 (1) ~~Life, Accident~~ Life and Health Insurance
28 (2) Accident and Health Insurance
29 (3) ~~Fire and Casualty~~ Property and Liability Insurance
30 (4) Repealed by Session Laws 1989, c. 485, s. 17, effective June 28, 1989.
31 (5) Title Insurance
32 (6) Repealed by Session Laws 1989, c. 485, s.17, effective June 28, 1989.
33 (7) Automobile Physical Damage.
34 (8) Medicare Supplement Insurance and Long-Term Care Insurance, as a
35 supplement to a license for the kinds of insurance listed in subdivision
36 (1) of this subsection.

37 ~~Any person who holds a valid license on February 1, 1988, which grants authority to act~~
38 ~~as an agent for the kinds of insurance described in this subsection shall be issued the~~
39 ~~equivalent agent's license for such kinds of insurance."~~

40 Sec. 23. G.S. 58-33-25(d) reads as rewritten:

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

1 Sec. 24. G.S. 58-33-25(d1) reads as rewritten:

2 "(d1) A ~~life, accident-life~~ and health insurance license ~~shall authorize~~ authorizes an
3 agent to sell variable contracts, ~~provided that if~~ the licensee ~~agent~~ satisfies the
4 Commissioner that he has met the NASD requirements of the Secretary of State of
5 North Carolina."

6 Sec. 25. G.S. 58-33-25(d2) reads as rewritten:

7 "(d2) A ~~life, accident, life~~ and health license ~~or an accident and health license~~
8 authorizes an agent to sell Medicare supplement and long-term care insurance policies
9 as defined respectively in Articles 54 and 55 of this Chapter, provided that the licensee
10 takes and passes a supplemental written examination for such insurance as provided in
11 G.S. 58-33-30(e) and pays the supplemental registration fee provided in G.S. 58-33-
12 125(c)."

13 Sec. 26. G.S. 58-33-30(g) reads as rewritten:

14 "(g) Denial of License. – If the Commissioner finds that the applicant has not fully
15 met the requirements for licensing, he shall refuse to issue the license and shall notify in
16 writing the applicant and the appointing insurer, if any, of such denial, stating the
17 grounds therefor. The application may also be denied for any reason for which a license
18 may be suspended or revoked or not renewed under G.S. 58-33-45(a). Within 30 days
19 after service of the notification, the applicant may make a written demand upon the
20 Commissioner for a review to determine the reasonableness of the Commissioner's
21 action. The review shall be completed without undue delay, and the applicant shall be
22 notified promptly in writing as to the outcome of the review. Within 30 days after
23 service of the notification as to the outcome, the applicant may make a written demand
24 upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General
25 Statutes if the applicant disagrees with the outcome."

26 Sec. 27. The catch line of G.S. 58-33-45 reads as rewritten:

27 "**§ 58-33-45. ~~Denial, suspension, Suspension, revocation, or nonrenewal of licenses~~**
28 **~~and appointments. licenses.~~**"

29 Sec. 27.1. G.S. 58-33-45(a) reads as rewritten:

30 "(a) The Commissioner may suspend, revoke, or refuse to ~~issue or renew~~ any
31 license issued under this Article if, ~~after notice to the licensee or applicant and hearing~~ in
32 accordance with the provisions of Article 3A of Chapter 150B, he finds as to the
33 licensee any one or more of the following conditions:

- 34 (1) Any untrue material statement in the license application;
35 (2) Any cause for which issuance of the license could have been refused
36 had it then existed and been known to the Commissioner at the time of
37 issuance;
38 (3) Violation of, or noncompliance with, any insurance laws, or of any
39 lawful rule, or order of the Commissioner or of a Commissioner of
40 another state;
41 (4) Obtaining or attempting to obtain any such license through
42 misrepresentation or fraud;

- 1 (5) Improperly withholding, misappropriating, or converting to his own
2 use any moneys belonging to policyholders, insurers, beneficiaries or
3 others received in the course of his insurance business;
4 (6) Misrepresentation of the terms of any actual or proposed insurance
5 contract;
6 (7) Willfully overinsuring property;
7 (8) Conviction of a misdemeanor involving moral turpitude, or conviction
8 of a felony;
9 (9) The person has been found guilty of any unfair trade practice or fraud;
10 (10) In the conduct of his affairs under the license, the licensee has used
11 fraudulent, coercive or dishonest practices, or has shown himself to be
12 incompetent, untrustworthy, or financially irresponsible;
13 (11) His license has been suspended or revoked in any other state, province,
14 district, or territory;
15 (12) The person has forged another's name to an application for insurance;
16 or
17 (13) The person has cheated on an examination for an insurance license."

18 Sec. 28. G.S. 58-33-45(c) is repealed.

19 Sec. 29. G.S. 58-33-50 reads as rewritten:

20 "**§ 58-33-50. Notices; loss of residency; duplicate licenses. Surrender, loss or**
21 **destruction of license.**

22 (a) The Commissioner shall notify ~~all appointing insurers, where applicable, and the~~
23 ~~licensee regarding every appointing insurer about~~ any suspension, revocation, or
24 nonrenewal of a license by the Commissioner ~~and about any surrender of~~
25 a license by a licensee, whether by consent order or otherwise.

26 (b) Upon suspension, ~~revocation~~ revocation, nonrenewal, surrender, or
27 reinstatement of any license, the Commissioner shall notify the Central Office of the
28 NAIC.

29 (c) Any licensee who ceases to maintain his residency in this State ~~as defined in~~
30 ~~G.S. 58-33-30~~ shall deliver his insurance license or licenses to the Commissioner by
31 personal delivery or by mail within 30 days after terminating ~~said~~ residency.

32 (d) The Commissioner may issue a duplicate license for any lost, stolen, or
33 destroyed license issued pursuant to this Article upon a written request from the licensee
34 and payment of appropriate fees."

35 Sec. 30. G.S. 58-48-125 reads as rewritten:

36 "**§ 58-48-125. Payments by the Association.**

37 The accounts created in G.S. 58-48-115 and G.S. 58-48-120 shall be used to pay the
38 claims against insolvent stock workers' compensation insurers and insolvent mutual
39 workers' compensation insurers, respectively, pursuant to G.S. ~~58-48-35, 58-48-110(4)~~
40 where the insolvency occurred prior to January 1, 1993. The expenses of
41 administering these accounts, including loss adjustment expenses, shall be paid out of
42 the respective accounts."

43 Sec. 31. G.S. 97-99(a) reads as rewritten:

1 "(a) Every policy for the insurance of the compensation herein provided, or
2 against liability therefor, shall be deemed to be made subject to the provisions of this
3 Article. No corporation, association or organization shall enter into any such policy of
4 insurance unless its form shall have been approved by the Commissioner of Insurance.
5 No policy form shall be approved unless the same shall provide a 30-day prior notice of
6 an intention to cancel same by the carrier to the insured by registered mail or certified
7 mail. This shall not apply to the expiration date shown in the policy. The carrier may
8 cancel the policy for nonpayment of premium on 10 days' written notice to the insured,
9 and the insured may cancel the policy on 10 days' written notice ~~by registered mail or~~
10 ~~certified mail~~ to the carrier. Whenever notice of intention to cancel is required to be
11 given by registered or certified mail, no cancellation by the insurer shall be effective
12 unless and until such method is employed and completed."

13 Sec. 32. G.S. 58-51-30 reads as rewritten:

14 **"§ 58-51-30. Policies to cover newborn infants and adopted children.**

15 Every policy of insurance and every hospital service or medical service plan as
16 defined in Articles 65 and 66 of this Chapter, and any health care plan operated by a
17 health maintenance organization as defined in Article 67 of this Chapter (regardless of
18 whether any of such policies or plans shall be defined as individual, family, group,
19 blanket, franchise, industrial or otherwise) that provides benefits on account of any
20 sickness, illness, or disability of any minor child or that provides benefits on account of
21 any medical treatment or service authorized or permitted to be furnished by a hospital
22 under the laws of this State to any minor child shall provide the benefits for those
23 occurrences beginning with the moment of the child's birth if the birth occurs while the
24 policy, subscriber contract, or evidence of coverage with such a plan is in force.
25 Adoptive children shall be treated the same as newborn infants and eligible for coverage
26 on the same basis upon placement in the adoptive home, regardless of whether a final
27 decree of adoption has been entered; provided that a petition for adoption has been duly
28 filed and is pursued to a final ~~degree~~ decree of adoption.

29 Benefits in such insurance policies, plans, or evidence of coverage shall be the same
30 for congenital defects or anomalies as are provided for most sicknesses or illnesses
31 suffered by minor children which are covered by the policies, plans, or evidence of
32 coverage. Benefits for congenital defects or anomalies shall specifically include, but not
33 be limited to, all necessary treatment and care needed by individuals born with cleft lip
34 or cleft palate.

35 No policy or plan subscriber contract or evidence of coverage shall be approved by
36 the Commissioner of Insurance pursuant to the provisions of this Article or the
37 provisions of Articles 65, 66, and 67 of this Chapter that does not comply with the
38 provisions of this section.

39 The provisions of this section ~~shall~~ apply both to insurers governed by the provisions
40 of Articles 1 through 64 of this Chapter and to corporations governed by the provisions
41 of Articles 65, 66, and 67 of this Chapter."

42 Sec. 33. G.S. 58-71-85 reads as rewritten:

43 **"§ 58-71-85. ~~Notice and hearing before refusal, suspension, revocation, etc., of~~**
44 **license. License sanction and denial procedures.**

1 (a) ~~No license shall be suspended, revoked, or renewal refused except on~~
2 ~~reasonable notice and opportunity to be heard afforded the person licensed or renewal~~
3 ~~thereof. The suspension or revocation of, or refusal to renew, any license under G.S.~~
4 ~~58-71-80 shall be in accordance with the provisions of Article 3A of Chapter 150B of~~
5 ~~the General Statutes.~~

6 (b) Whenever the Commissioner denies an initial application for a license,
7 license or an application for a reissuance of a license, he shall notify the applicant and
8 advise, in writing, the applicant of the reasons for the denial of the license. The
9 application may also be denied for any reason for which a license may be suspended or
10 revoked or not renewed under G.S. 58-71-80(a). Within 30 days ~~of~~ after receipt service
11 of the notification, the applicant may make a written demand upon the Commissioner
12 for a hearing review to determine the reasonableness of the Commissioner's action. ~~Such~~
13 ~~hearing. The review shall be scheduled within 30 days from the date of receipt of the written~~
14 ~~demand. completed without undue delay, and the applicant shall be notified promptly in~~
15 ~~writing as to the outcome of the review. Within 30 days after service of the notification~~
16 ~~as to the outcome, the applicant may make a written demand upon the Commissioner~~
17 ~~for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant~~
18 ~~disagrees with the outcome."~~

19 Sec. 34. G.S. 143-143.14 reads as rewritten:

20 "**§ 143-143.14. Notice and hearing.**

21 (a) ~~The Board shall not suspend, revoke or deny a license, or refuse the renewal~~
22 ~~of a license, or impose a civil penalty, until a written notice of the complaint has been~~
23 ~~furnished to the licensee or applicant against whom the same is directed, and a hearing~~
24 ~~thereon has been held before the Board. At least 30 days' written notice of the time and~~
25 ~~place of the hearing shall be given to the licensee or applicant by certified mail to his~~
26 ~~last known address, as shown on the license or other record of information in possession~~
27 ~~of the Board. At any such hearing, the licensee or applicant shall have the right to be~~
28 ~~heard in person or through counsel. After the hearing, the Board shall have the power to~~
29 ~~deny, suspend, revoke or refuse to renew the license in question, or to impose a civil~~
30 ~~penalty for violation of the provisions of this Article. Immediate notice of any such~~
31 ~~action by the Board shall be given to the licensee or applicant in the same manner as~~
32 ~~provided herein for furnishing notice of the hearing. License suspensions, revocations,~~
33 ~~and renewal refusals are subject to the provisions of Chapter 150B of the General~~
34 ~~Statutes.~~

35 (b) Within 30 days after receipt of a notification that an application for a license
36 has been denied, the applicant may make a written demand upon the Board for a review
37 by a member of the Department staff designated by the Board to determine the
38 reasonableness of the Board's action. The review shall be completed without undue
39 delay, and the Board shall be notified promptly in writing as to the outcome of the
40 review. Within 30 days after service of the notification as to the outcome, the Board
41 may make a written demand upon the Commissioner for a hearing under Article 3A of
42 Chapter 150B of the General Statutes if the Board disagrees with the outcome."

43 Sec. 35. G.S. 143-150 reads as rewritten:

44 "**§ 143-150. No electricity to be furnished units not in compliance.**

1 It shall be ~~is~~ unlawful for any individual natural person, partnership, firm or
2 corporation ~~person~~ to allow any electric current for use in any manufactured home to be
3 turned on or to continue to initially furnish electricity for use in such any manufactured
4 home without having first ascertained that either a label of compliance is permanently
5 attached to said manufactured home or a certificate of compliance has been issued for
6 such manufactured home, provided this section shall not apply if electricity to such
7 manufactured home had been turned on or furnished prior to September 1, 1971, by said
8 firm or corporation or if the owner of said manufactured home shall have obtained a
9 certificate of title for said manufactured home as required by G.S. 20-52 prior to
10 September 1, 1971, or his predecessor in title shall have obtained such certificate prior
11 to September 1, 1971, or the owner furnishes other satisfactory evidence on file with the
12 North Carolina Department of Motor Vehicles that said manufactured home was
13 ~~manufactured prior to September 1, 1971.~~ first ascertaining that the manufactured home
14 and its electrical supply has been inspected pursuant to G.S. 143-139 by the inspection
15 authority having jurisdiction and found to comply with the requirements of the State
16 Electrical Code. The certificate of compliance issued by the inspection jurisdiction
17 shall be accepted as evidence of compliance."

18 Sec. 36. G.S. 143-151.17 is amended by adding a new subsection to read:

19 "(d) The Board may deny an application for a certificate for any of the grounds for
20 suspension, revocation, or refusal to grant that are described in subsection (a) of this
21 section. Within 30 days after receipt of a notification that an application for a certificate
22 has been denied, the applicant may make a written demand upon the Board for a review
23 by a member of the Department staff designated by the Board to determine the
24 reasonableness of the Board's action. The review shall be completed without undue
25 delay, and the Board shall be notified promptly in writing as to the outcome of the
26 review. Within 30 days after service of the notification as to the outcome, the Board
27 may make a written demand upon the Commissioner for a hearing under Article 3A of
28 Chapter 150B of the General Statutes if the Board disagrees with the outcome."

29 Sec. 37. G.S. 58-33-30(d)(2) reads as rewritten:

30 "(2) All individual applicants for licensing as ~~life, accident-life~~ and health
31 agents or as ~~fire and casualty-property~~ and liability agents shall furnish
32 evidence satisfactory to the Commissioner of successful completion of
33 at least 40 hours of instruction, which shall in all cases include the
34 general principles of insurance and any other topics that the
35 Commissioner establishes by regulation; and which shall, in the case
36 of ~~life, accident-life~~ and health insurance applicants, include the
37 principles of life, accident, and health insurance and, in the case of ~~fire~~
38 ~~and casualty-property~~ and liability insurance applicants, shall include
39 instruction in ~~fire and casualty-property~~ and liability insurance. Any
40 applicant who submits satisfactory evidence of having successfully
41 completed an agent training course that has been approved by the
42 Commissioner and that is offered by or under the auspices of a ~~fire and~~
43 ~~casualty-property~~ or liability or life or health insurance company
44 admitted to do business in this State or a professional insurance

1 association shall be deemed to have satisfied the educational
2 requirements of this subdivision. The requirement in this subdivision
3 for completion of 40 hours of instruction applies only to applicants for
4 ~~life, accident-life and health or fire and casualty property and liability~~
5 insurance licenses. The provisions of this subdivision also apply to the
6 applicants for accident and health insurance licenses; except that such
7 applicants shall be required to successfully complete 20 hours of
8 instruction. Such instruction shall in all cases include the general
9 principles of insurance and the principles of accident and health
10 insurance."

11 Sec. 38. G.S. 58-54-15 reads as rewritten:

12 **"§ 58-54-15. Minimum standards for benefits, marketing practices, compensation**
13 **arrangements, reporting practices, and claims payments.**

14 The Commissioner shall adopt ~~rules, pursuant to G.S. 150B-13,~~ rules to establish
15 minimum standards for benefits, marketing practices, compensation arrangements,
16 reporting practices, and claims payments under policies."

17 Sec. 39. G.S. 58-55-30(k) reads as rewritten:

18 "(k) The Commissioner shall adopt ~~rules, pursuant to G.S. 150B-13,~~ rules to establish
19 minimum standards for marketing practices and compensation arrangements for long-
20 term care insurance."

21 Sec. 40. G.S. 58-57-107 is recodified as G.S. 58-3-147.

22 Sec. 41. G.S. 58-27-5(b) reads as rewritten:

23 "(b) Any person or entity violating the provisions of ~~Articles 1 through 64~~ of this
24 ~~Chapter~~ section shall be guilty of a misdemeanor and subject to a fine of not more than
25 five thousand dollars (\$5,000), or imprisonment for not more than six months, or both,
26 in the discretion of the court."

27 Sec. 42. G.S. 58-48-42 reads as rewritten:

28 **"§ 58-48-42. Procedure for appeal to Commissioner from decision of Association.**

29 In any hearing called by the Commissioner for an appeal made pursuant to ~~G.S. 58-~~
30 ~~48-40(7),~~ G.S. 58-48-40(c)(7) no later than 20 days before the hearing the appellant shall
31 file with the Commissioner or the Commissioner's designated hearing officer and shall
32 serve on the appellee a written statement of the appellant's case and any evidence the
33 appellant intends to offer at the hearing. No later than five days before the hearing, the
34 appellee shall file with the Commissioner or the Commissioner's designated hearing
35 officer and shall serve on the appellant a written statement of the appellee's case and any
36 evidence the appellee intends to offer at the hearing. Each hearing shall be recorded and
37 transcribed. The cost of the recording and transcribing shall be borne equally by the
38 appellant and the appellee. However, upon any final adjudication the prevailing party
39 shall be reimbursed for that party's share of the costs by the other party. Each party
40 shall, on a date determined by the Commissioner or the Commissioner's designated
41 hearing officer, but not sooner than 15 days after delivery of the completed transcript to
42 the party, submit to the Commissioner or the Commissioner's designated hearing officer
43 and serve on the other party, a proposed order. The Commissioner or the
44 Commissioner's designated hearing officer shall then issue an order."

1 Sec. 43. G.S. 58-7-170(c), as amended by House Bill 622 of the 1993
2 General Assembly, reads as rewritten:

3 "(c) The cost of investments made by insurers in mortgage loans, authorized by
4 G.S. 58-7-179, with any one person shall not exceed the lesser of five percent (5%) of
5 the insurer's admitted assets or ten percent (10%) of the insurer's capital and surplus.
6 An insurer shall not invest in additional mortgage loans ~~with that person~~ without the
7 Commissioner's consent if the admitted value of all mortgage loans held by the insurer
8 exceeds an aggregate of sixty percent (60%) of the admitted assets of the insurer, if (i)
9 the admitted value of all mortgage pass-through securities permitted by G.S. 58-7-
10 173(17) does not exceed twenty-five percent (25%) of the admitted assets of the insurer
11 and (ii) the admitted value of other mortgage loans permitted by G.S. 58-7-179 does not
12 exceed forty percent (40%) of the admitted assets of the insurer.

13 An insurer that, as of October 1, ~~1991, 1993~~, has mortgage investments ~~with any one~~
14 ~~person~~ that exceed the aggregate limitation specified in this subsection shall submit to
15 the Commissioner no later than January 31, ~~1992, 1994~~, a plan to bring the amount of
16 mortgage investments with that person into compliance with the limitations by January
17 1, 2001."

18 Sec. 44. G.S. 58-7-173(17), as amended by House Bill 622 of the 1993
19 General Assembly, reads as rewritten:

20 "(17) Mortgage pass-through securities and derivatives
21 thereof, that have been rated as investment grade by the
22 Securities Valuation Office of the NAIC ~~and considered by the~~
23 ~~Federal Financial Institutions Examination Council or its successor~~
24 ~~to be nonhigh risk mortgage securities~~, including, without
25 limitation, collateral mortgage obligations backed by a pool
26 of mortgages of the kind, class, and investment quality as
27 those eligible for investment under G.S. 58-7-179."

28 Sec. 45. G.S. 58-23-26(c), as enacted by House Bill 622 of the 1993 General
29 Assembly, reads as rewritten:

30 "(c) Each pool is subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-150, 58-2-
31 155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, ~~58-3-70, 58-3-71, 58-3-75, 58-~~
32 ~~3-80, 58-3-81, 58-3-105, 58-6-5, 58-7-21, 58-7-26, 58-7-30, 58-7-32, 58-7-31, 58-7-50,~~
33 58-7-55, 58-7-140, 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-
34 170, 58-7-172, 58-7-173, 58-7-175, 58-7-177, 58-7-179, 58-7-180, 58-7-183, 58-7-185,
35 58-7-187, 58-7-188, ~~58-7-190, 58-7-192, 58-7-193, 58-7-195, 58-7-197, 58-7-200,~~ and
36 Articles 13, 19, and 34 of this Chapter. Annual financial statements required by G.S.
37 58-2-165 shall be filed by each pool within 60 days after the end of the pool's fiscal
38 year, subject to extension by the Commissioner."

39 Sec. 46. G.S. 58-57-105(b), as enacted by House Bill 665 of the 1993
40 General Assembly, reads as rewritten:

41 "(b) If credit life insurance premiums are charged through a credit card facility or
42 if credit life insurance premiums are payable on the then outstanding balances on
43 revolving charge account contracts defined in G.S. 25A-11, a premium not exceeding
44 seventy-four cents (74¢) per one thousand dollars (\$1,000) of insured indebtedness per

1 month is authorized. The premium rate for joint credit life insurance may not exceed
2 one and two-thirds (1 2/3) the permitted single credit life insurance premium rate."

3 Sec. 47. G.S. 58-1-25(a) reads as rewritten:

4 "(a) This section applies to all motor vehicle service agreement companies
5 soliciting business in this State, but it ~~shall~~ does not apply to ~~the usual performance~~
6 ~~guarantees or warranties offered at no charge~~ performance guarantees, warranties, or motor
7 vehicle service agreements made by manufacturers

8 (1) A manufacturer,

9 (2) A distributor, or

10 (3) A subsidiary or affiliate of a manufacturer or a distributor, where fifty-
11 one percent (51%) or more of the subsidiary or affiliate is owned
12 directly or indirectly by

13 a. The manufacturer,

14 b. The distributor, or

15 c. The common owner of fifty-one percent (51%) or more of the
16 manufacturer or distributor

17 in connection with the sale of ~~new~~ motor vehicles. This section does not apply to any
18 motor vehicle dealer licensed to do business in this State (i) whose primary business is
19 the retail sale and service of motor vehicles; (ii) who makes and administers its own
20 service agreements with or without association with any other entity; a third-party
21 administrator or who makes its own service agreements in association with a
22 manufacturer, distributor, or their subsidiaries or affiliates; ~~or~~ and (iii) whose service
23 agreements cover only vehicles sold by the dealer to its retail ~~customer.~~ customer;
24 provided that the dealer complies with G.S. 58-1-35. A motor vehicle dealer who sells a
25 motor vehicle service agreement to a consumer, as defined in 15 U.S.C. § 2301(3), shall
26 not be deemed to have made a written warranty to the consumer with respect to the
27 motor vehicle sold or to have entered into a service contract with the consumer that
28 applies to the motor vehicle, as provided in 15 U.S.C. § 2308(a), if: (i) the motor
29 vehicle dealer acts as a mere agent of a third party in selling the motor vehicle service
30 agreement; and (ii) the motor vehicle dealer would, after the sale of the motor vehicle
31 service agreement, have no further obligation under the motor vehicle service agreement
32 to the consumer to service or repair the vehicle sold to the consumer at or within 90
33 days before the dealer sold the motor vehicle service agreement to the consumer."

34 Sec. 48. G.S. 58-1-25(b) reads as rewritten:

35 "(b) The following definitions apply in this ~~section.~~ section and in G.S. 58-1-30
36 through G.S. 58-1-50:

37 (1) Authorized insurer. – An insurance company authorized to write
38 liability insurance under Articles 7, 16, 21, or 22 of this Chapter.

39 (2) Distributor. – Defined in G.S. 20-286(3).

40 (3) Licensed insurer. – An insurance company licensed to write liability
41 insurance under Article 7 or 16 of this Chapter.

42 (4) Motor vehicle. – Defined in G.S. 20-4.01(23), but also including
43 mopeds as defined in G.S. 20-4.01(27)d1.

1 ~~(4)~~(5) Motor vehicle service agreement. — Any contract or agreement
 2 indemnifying the motor vehicle service agreement holder against loss
 3 caused by failure, arising out of the ownership, operation, or use of a
 4 motor vehicle, of a mechanical or other component part of the motor
 5 vehicle that is listed in the agreement. The term does not mean a
 6 contract or agreement guaranteeing the performance of parts or
 7 lubricants manufactured by the guarantor and sold for use in
 8 connection with a motor vehicle where no additional consideration is
 9 paid or given to the guarantor for the contract or agreement beyond the
 10 price of the parts or lubricants.

11 ~~(2)~~(6) Motor vehicle service agreement company. — Any person that issues
 12 motor vehicle service agreements and that is not a licensed insurer.

13 Sec. 49. G.S. 58-1-30(a) reads as rewritten:

14 "(a) This section applies to all home appliance service agreement companies
 15 soliciting business in this State, but it ~~shall~~ does not apply to ~~the usual~~ performance
 16 guarantees or warranties ~~offered at no charge made~~ by manufacturers in connection with
 17 the sale of new home appliances. This section does not apply to any home appliance
 18 dealer licensed to do business in this State (i) whose primary business is the retail sale
 19 and service of home appliances; (ii) who makes and administers its own service
 20 agreements without association with any other entity; ~~or~~ and (iii) whose service
 21 agreements cover only appliances sold by the dealer to its retail ~~customers.~~ customers,
 22 provided that the dealer complies with G.S. 58-1-35. This section does not apply to any
 23 warranty made by a builder or seller of real property relating to home appliances that
 24 are sold along with real property. This section does not apply to any issuer of credit
 25 cards or charge cards that markets home appliance service agreements as an ancillary
 26 part of its business; provided, however, that such issuer maintains contractual liability
 27 insurance in accordance with G.S. 58-1-35(k)."

28 Sec. 50. G.S. 58-1-35(j) reads as rewritten:

29 "(j) Any person who knowingly offers for sale or sells a service agreement for a
 30 company that has failed to comply with the provisions of this section is guilty of a
 31 misdemeanor. All service agreement companies and individuals selling service
 32 agreements are subject to ~~Article 63 of this Chapter and~~ G.S. 75-1 through G.S. 75-19. ~~It~~
 33 ~~is unlawful for any person to operate, maintain, or establish a service agreement company~~
 34 ~~unless the company has a valid registration issued by the Commissioner. Any service~~
 35 ~~agreement company operating in this State without a valid registration is an unauthorized~~
 36 ~~insurer."~~

37 Sec. 51. G.S. 58-1-35(k) reads as rewritten:

38 "(k) Each service agreement company shall maintain contractual liability
 39 insurance with ~~a licensed~~ an authorized insurer for one hundred percent (100%) of
 40 claims exposure, including reported and incurred but not reported claims and claims
 41 expenses, on business written in this State. The Commissioner may adopt rules
 42 governing the terms and conditions of policy forms for the insurance required by this
 43 subsection."

1 Sec. 52. Section 5 of Chapter 1014 of the 1991 Session Laws (1992 Regular
2 Session) reads as rewritten:

3 "Sec. 5. This act becomes effective January 1, 1993, and applies to service
4 agreements written to become effective on or after that ~~date~~-date; provided, however,
5 that service agreement companies have until January 1, 1995, to comply with the
6 provisions of G.S. 58-1-25(c) through (g), 58-1-30(c) through (g), 58-1-35(g), 58-1-
7 40, 58-1-41, 58-1-45, and 58-1-50."

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