

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 353

Pensions and Retirement/Insurance/State Personnel Committee Substitute Adopted 4/13/95

Short Title: Insurance Technical Amendments/AB.

(Public)

Sponsors:

Referred to: Finance

March 9, 1995

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AMENDMENTS AND CORRECTIONS IN THE INSURANCE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-1-5 reads as rewritten:

"§ 58-1-5. Definitions.

In ~~Articles 1 through 64~~ of this Chapter, unless the context ~~otherwise requires~~, clearly requires otherwise:

- (1) 'Alien company' means a company incorporated or organized under the laws of any jurisdiction outside of the United States.
- (2) 'Commissioner' means Commissioner of Insurance of North ~~Carolina~~. Carolina or an authorized designee of the Commissioner.
- (3) 'Company' or 'insurance company' or 'insurer' ~~shall be deemed to include~~ includes any corporation, association, partnership, society, order, individual or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships and corporations.

- 1 (4) 'Department' means Department of Insurance of North Carolina.
2 (5) 'Domestic company' means a company incorporated or organized under
3 the laws of this State.
4 (6) 'Foreign company' means a company incorporated or organized under
5 the laws of the United States or of any jurisdiction within the United
6 States other than this State.
7 (7) 'NAIC' means the National Association of Insurance Commissioners.
8 (8) 'Nuclear insured' means a public utility procuring insurance against
9 radioactive contamination and other risks of direct physical loss at a
10 nuclear electric generating plant.
11 (9) 'Person' ~~includes an individual, aggregation of individuals, corporation,~~
12 ~~company, association and partnership.~~ means an individual, partnership,
13 firm, association, corporation, joint-stock company, trust, any similar
14 entity, or any combination of the foregoing acting in concert. 'Person'
15 does not mean the State of North Carolina or any county, city, or other
16 political subdivision of the State of North Carolina.
17 (10) The singular form shall include the plural, and the masculine form shall
18 include the feminine wherever appropriate."

19 Sec. 2. G.S. 58-1-15(b) reads as rewritten:

20 "(b) Any warranty made solely by a manufacturer, distributor, or seller of goods or
21 services without charge, or an extended warranty offered as an option and made solely by
22 a manufacturer, distributor, or seller of goods or services for charge, that guarantees
23 indemnity for defective parts, mechanical or electrical breakdown, labor, or any other
24 remedial measure, including replacement of goods or repetition of services, shall not be a
25 contract of insurance under Articles 1 through 64 of this Chapter; however, service
26 agreements on motor vehicles are governed by ~~G.S. 58-1-25 and G.S. 58-1-35 through G.S.~~
27 ~~58-1-50.~~ G.S. 58-1-25, 58-1-35, and 58-1-36. Service agreements on home appliances are
28 governed by ~~G.S. 58-1-30 through G.S. 58-1-50.~~ G.S. 58-1-30, 58-1-35, and 58-1-36."

29 Sec. 3. G.S. 58-1-25 reads as rewritten:

30 "**§ 58-1-25. Motor vehicle service agreement companies.**

31 (a) This section applies to all motor vehicle service agreement companies
32 soliciting business in this State, but it does not apply to performance guarantees,
33 warranties, or motor vehicle service agreements made by

- 34 (1) A manufacturer,
35 (2) A distributor, or
36 (3) A subsidiary or affiliate of a manufacturer or a distributor, where fifty-
37 one percent (51%) or more of the subsidiary or affiliate is owned
38 directly or indirectly by
39 a. The manufacturer,
40 b. The distributor, or
41 c. The common owner of fifty-one percent (51%) or more of the
42 manufacturer or distributor

1 in connection with the sale of motor vehicles. This section does not apply to any motor
2 vehicle dealer licensed to do business in this State (i) whose primary business is the retail
3 sale and service of motor vehicles; (ii) who makes and administers its own service
4 agreements with or without association with a third-party administrator or who makes its
5 own service agreements in association with a manufacturer, distributor, or their
6 subsidiaries or affiliates; and (iii) whose service agreements cover only vehicles sold by
7 the dealer to its retail customer; provided that the dealer complies with ~~G.S. 58-1-35.~~ G.S.
8 58-1-35 and G.S. 58-1-36. A motor vehicle dealer who sells a motor vehicle service
9 agreement to a consumer, as defined in 15 U.S.C. § 2301(3), ~~shall not be~~ is not deemed to
10 have made a written warranty to the consumer with respect to the motor vehicle sold or to
11 have entered into a service contract with the consumer that applies to the motor vehicle,
12 as provided in 15 U.S.C. § 2308(a), if: (i) the motor vehicle dealer acts as a mere agent of
13 a third party in selling the motor vehicle service agreement; and (ii) the motor vehicle
14 dealer would, after the sale of the motor vehicle service agreement, have no further
15 obligation under the motor vehicle service agreement to the consumer to service or repair
16 the vehicle sold to the consumer at or within 90 days before the dealer sold the motor
17 vehicle service agreement to the consumer.

18 (b) The following definitions apply in this section and in ~~G.S. 58-1-30 through G.S.~~
19 ~~58-1-50.~~ G.S. 58-1-30, 58-1-35, and 58-1-36:

- 20 (1) Authorized insurer. – An insurance company authorized to write
21 liability insurance under Articles 7, 16, 21, or 22 of this Chapter.
- 22 (2) Distributor. – Defined in G.S. 20-286(3).
- 23 (3) Licensed insurer. – An insurance company licensed to write liability
24 insurance under Article 7 or 16 of this Chapter.
- 25 (4) Motor vehicle. – Defined in G.S. 20-4.01(23), but also including
26 mopeds as defined in G.S. 20-4.01(27)d1.
- 27 (5) Motor vehicle service agreement. – Any contract or agreement
28 indemnifying the motor vehicle service agreement holder against loss
29 caused by failure, arising out of the ownership, operation, or use of a
30 motor vehicle, of a mechanical or other component part of the motor
31 vehicle that is listed in the agreement. The term does not mean a
32 contract or agreement guaranteeing the performance of parts or
33 lubricants manufactured by the guarantor and sold for use in connection
34 with a motor vehicle where no additional consideration is paid or given
35 to the guarantor for the contract or agreement beyond the price of the
36 parts or lubricants.
- 37 (6) Motor vehicle service agreement company. – Any person that issues
38 motor vehicle service agreements and that is not a licensed insurer.

39 (c) through (g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 730, s. 3."
40 Sec. 4. G.S. 58-1-35(a) reads as rewritten:

41 "(a) The provisions of this section and ~~G.S. 58-1-40 through G.S. 58-1-50~~ G.S. 58-1-
42 36 apply to companies specified in G.S. 58-1-25 and G.S. 58-1-30."

43 Sec. 5. G.S. 58-1-35(b) reads as rewritten:

1 "(b) The following definitions apply in this section and in ~~G.S. 58-1-40 through G.S.~~
2 ~~58-1-50; G.S. 58-1-36:~~

3 (1) Service agreement. Includes motor vehicle service agreements and
4 home appliance service agreements.

5 (2) Service agreement company. Includes motor vehicle service agreement
6 companies and home appliance service agreement companies."

7 Sec. 6. G.S. 58-2-50 reads as rewritten:

8 **"§ 58-2-50. ~~Examinations, investigations and hearings; notice of hearing.~~**
9 **Examinations and investigations.**

10 All ~~examinations, investigations and hearings~~ examinations and investigations provided
11 for by ~~Articles 1 through 64 of this Chapter~~ may be conducted by the Commissioner
12 personally or by one or more of ~~his~~ deputies, investigators, actuaries, examiners or
13 employees designated by ~~him~~ for the purpose. If the Commissioner or any investigator
14 appointed to conduct ~~such~~ the investigations is of the opinion that there is evidence to
15 charge any person or persons with a criminal violation of ~~the insurance laws he~~ any
16 provision of this Chapter, the Commissioner may arrest with warrant or cause such ~~the~~
17 person or persons to be arrested. ~~All hearings shall, unless otherwise specially provided, be~~
18 ~~held at such time and place as shall be designated in a notice which shall be given by the~~
19 ~~Commissioner in writing to the person cited to appear, at least 10 days before the date designated~~
20 ~~therein. The notice shall state the subject of inquiry and the specific charges, if any. It shall be~~
21 ~~sufficient to give such notice either by delivering it to such person or by depositing the same in~~
22 ~~the United States mail, postage prepaid, and addressed to the last known place of business of~~
23 ~~such person."~~

24 Sec. 7. G.S. 58-2-52(a) reads as rewritten:

25 "(a) The Commissioner may adopt rules for the hearing of appeals by the
26 Commissioner or the Commissioner's designated hearing officer under G.S. 58-36-35,
27 58-37-65, 58-45-50, 58-46-30, 58-48-40(c)(7), 58-48-42, ~~58-62-51(e), and G.S. 58-62-92.~~
28 and 58-62-51(c). These rules may provide for prefiled evidence and testimony of the
29 parties, prehearing statements and conferences, settlement conferences, discovery,
30 subpoenas, sanctions, motions, intervention, consolidation of cases, continuances, rights
31 and responsibilities of parties, witnesses, and evidence."

32 Sec. 8. G.S. 58-2-225, 58-5-60, and 58-5-65 are repealed.

33 Sec. 9. G.S. 58-3-50 reads as rewritten:

34 **"§ 58-3-50. Companies must do business in own name; emblems, insignias, etc.**

35 Every insurance company or group of companies must conduct its business in the
36 State in, and the policies and contracts of insurance issued by it shall be headed or
37 entitled only by, its proper or corporate ~~name~~ name or names. There shall not appear on
38 ~~the face of the policy or on its filing back~~ anything that would indicate that it is the
39 obligation of any other than the company or companies responsible for the payment of
40 losses under the policy, though it will be permissible to stamp or print on the ~~bottom of the~~
41 filing back, policy, the name or names of the department or general agency issuing the
42 same, and the group of companies with which the company is financially affiliated. The
43 use of any emblem, insignia, or anything other than the true and proper corporate name of

1 ~~such the company or group of companies~~ shall be permitted only with the approval of the
2 Commissioner."

3 Sec. 10. G.S. 58-3-100(a) reads as rewritten:

4 "(a) The Commissioner may revoke, suspend, or refuse to renew the license of any
5 insurer if:

6 (1) The insurer fails or refuses to comply with any law, order or rule
7 applicable to the insurer.

8 (2) The insurer's financial condition is unsound, or its assets above its
9 liabilities, exclusive of capital, are less than the amount of its capital or
10 required minimum surplus.

11 (3) The insurer has published or made to the Department or to the public
12 any false statement or report.

13 (4) ~~Whenever the~~ The insurer refuses to submit to any examination
14 authorized by law.

15 (5) ~~Whenever the~~ The insurer is found to make a practice of unduly engaging
16 in litigation or of delaying the investigation of claims or the adjustment
17 or payment of valid claims."

18 Sec. 11. Article 5 of Chapter 58 of the General Statutes is amended by adding
19 a new section to read:

20 "**§ 58-5-63. Interest; liquidation of deposits for liabilities.**

21 (a) All insurance companies making deposits under this Article are entitled to
22 interest on those deposits, which shall remain in the deposit accounts. The right to
23 interest is subject to a company paying its insurance policy liabilities. If any company
24 fails to pay those liabilities, interest accruing after the failure is payable to the
25 Commissioner for the payment of those liabilities under subsection (b) of this section.

26 (b) If any company fails to pay its insurance policy liabilities after those liabilities
27 have been established by settlement or final adjudication, the Commissioner may
28 liquidate the amount of the company's deposit and accrued interest specified in
29 subsection (a) of this section that will satisfy the company's policy liabilities and make
30 payment to the person to whom the liability is owed. After payment has been made, the
31 Commissioner may require the company to deposit the amount paid out under this
32 subsection."

33 Sec. 12. G.S. 58-5-70 reads as rewritten:

34 "**§ 58-5-70. Lien of policyholders; action to enforce.**

35 Upon the securities deposited with the Commissioner by any ~~such foreign or alien~~
36 insurance company, the holders of all contracts of the company who are citizens or
37 residents of this State at ~~such the~~ time, or who hold policies issued upon property in the
38 State, shall have a lien for the amounts due them, respectively, under or in consequence
39 of ~~such the~~ contracts for losses, equitable values, return premiums, or otherwise, and shall
40 be entitled to be paid ratably out of the proceeds of ~~said the~~ securities, if ~~such the~~ proceeds
41 ~~be are~~ not sufficient to pay all of ~~said the~~ contract holders. When any foreign or alien
42 insurance company depositing securities as aforesaid under this Article becomes insolvent
43 or bankrupt or makes an assignment for the benefit of its creditors, any holder of ~~such the~~

1 contract may begin an action in the Superior Court of the County of Wake to enforce the
2 lien for the benefit of all the holders of ~~such~~the contracts. The Commissioner shall be a
3 party to the suit, and the funds shall be distributed by the court, but ~~no cost of such action~~
4 ~~shall~~the cost of the action shall not be adjudged against the Commissioner."

5 Sec. 13. G.S. 58-7-21(a) reads as rewritten:

6 "(a) As used in this section and in G.S. 58-7-26, 58-7-30, and ~~58-7-32~~58-7-31:

7 (1) 'Reinsurance' means a transfer of insurance risk from a ceding insurer to
8 an assuming insurer.

9 (2) 'Insurance risk' means an uncertainty regarding the ultimate amount of
10 any claim payment (underwriting risk) or an uncertainty regarding the
11 timing of ~~such~~the payments (timing risk), or both."

12 Sec. 14. G.S. 58-7-30 reads as rewritten:

13 "**§ 58-7-30. Insolvency of ceding insurer; exceptions.**

14 ~~No~~Notwithstanding any other provision of this Article, no credit shall be allowed, as
15 an admitted asset or as a deduction from liability, to any ceding insurer for reinsurance,
16 unless the reinsurance is payable by the assuming insurer, on the basis of claims allowed
17 against the ceding insurer under the contract or contracts reinsured without diminution
18 because of the insolvency of the ceding insurer, directly to the ceding insurer or to its
19 domiciliary receiver except (1) where the contract specifically provides for another
20 payee of the reinsurance in the event of the insolvency of the ceding insurer or (2) where
21 the assuming insurer, with the consent of the direct insured or insureds, has assumed the
22 policy obligations of the ceding insurer as direct obligations of the assuming insurer to
23 the payees under the policies and in substitution of the obligations of the ceding insurer to
24 the payees."

25 Sec. 15. G.S. 58-7-31(a) reads as rewritten:

26 "(a) ~~This~~Notwithstanding any other provision of this Article, this section applies to
27 every domestic life and accident and health insurer, to every other licensed life and
28 accident and health insurer that is not subject to a substantially similar statute or
29 administrative rule in its domiciliary state, and to every licensed property and casualty
30 insurer with respect to its accident and health business. This section does not apply to
31 assumption reinsurance, yearly renewable term reinsurance, nor to certain
32 nonproportional reinsurance, such as stop loss or catastrophe reinsurance."

33 Sec. 16. G.S. 58-7-31(f) reads as rewritten:

34 "(f) In the case of a letter of intent, a reinsurance ~~agreement~~agreement or an
35 amendment to a reinsurance agreement must be executed within a reasonable period of
36 time, not exceeding 90 days after the execution date of the letter of intent, in order for
37 credit to be granted for the reinsurance ceded."

38 Sec. 17. G.S. 58-7-75(1) reads as rewritten:

39 "(1) Stock Life Insurance Companies. – A stock corporation may be
40 organized in the manner prescribed in this Chapter and licensed to do
41 the business of life insurance, only when it has paid-in capital of at least
42 six hundred thousand dollars (\$600,000) and a paid-in initial surplus of
43 at least nine hundred thousand dollars (\$900,000), and it may in

1 addition do the kind of business specified in G.S. 58-7-15(2), without
2 having additional capital or surplus. Every such company shall at all
3 times thereafter maintain a minimum capital of not less than six hundred
4 thousand dollars (\$600,000) and a minimum surplus of at least one
5 hundred fifty thousand dollars (\$150,000). Provided that, any such
6 corporation may do either or both of the kinds of insurance authorized
7 for ~~stock, stock~~ accident and health insurance companies, as set out in
8 paragraphs a and b of subdivision (3) of G.S. 58-7-15 (accidental death or
9 personal injury, and noncancelable disability), G.S. 58-7-15(3)a. and b.,
10 where its charter so permits, and when and so only as long as it meets and
11 maintains a minimum capital and surplus equal to the sum of the
12 minimum capital and surplus requirements of this subdivision (1)a and
13 the minimum capital and surplus requirements of subdivision (2)a and/or
14 (2)b hereof as applicable. subdivision (2) of this section."

15 Sec. 18. G.S. 58-7-150(c) reads as rewritten:

16 "(c) An application for ~~merger or consolidation~~ under this section shall be
17 accompanied by a nonrefundable fee of two hundred fifty dollars (\$250.00)."

18 Sec. 19. G.S. 58-7-177 reads as rewritten:

19 **"§ 58-7-177. Investments in subsidiaries and affiliated corporations.**

20 (a) Any insurer, either by itself or in cooperation with one or more persons, may
21 organize or acquire one or more subsidiaries, subject to the limitations of this Chapter.
22 The subsidiaries may conduct any kind of business, and their authority to do so shall not
23 be limited because they are subsidiaries of an insurer, except where in conflict with
24 Article 19 of this Chapter.

25 (b) In addition to investments in common stock, preferred stock, debt obligations,
26 and other securities permitted under this Chapter, an insurer may also invest and maintain
27 investments in common stock, preferred stock, debt obligations, and other securities of
28 one or more subsidiaries ~~or affiliated corporations~~ under the provisions and limitations
29 outlined in G.S. 58-19-10.

30 (c) ~~For purposes of this section:~~

31 (1) ~~'Subsidiary' has the same meaning as in G.S. 58-19-5(7).~~

32 (2) ~~'Affiliated' has the same meaning as in G.S. 58-19-5(1).~~

33 As used in this section 'subsidiary' has the same meaning as in G.S. 58-19-5(7).

34 (d) Debt obligations, other than mortgage loans, made under the authority of this
35 section must meet amortization requirements in accordance with the latest edition of the
36 NAIC publication entitled 'Valuation of Securities'; provided that the amortization
37 methodology is acceptable to the Commissioner.

38 (e) For purposes of this section, an insurer's investment in a subsidiary ~~or affiliated~~
39 ~~corporation~~ shall be considered to include all sums lent to the ~~subsidiary or affiliated~~
40 ~~corporation.~~ subsidiary."

41 Sec. 20. G.S. 58-9-2(a)(6)c. reads as rewritten:

42 "c. An underwriting manager who, pursuant to contract, manages all
43 the reinsurance ~~operating~~ operations of a reinsurer, is under

1 common control with the reinsurer under Article 19 of this
2 Chapter, and whose compensation is not based on the volume of
3 premiums written;"

4 Sec. 21. G.S. 58-12-11(f) reads as rewritten:

5 "(f) Every domestic insurer that files a risk-based capital plan or revised risk-based
6 capital plan with the Commissioner shall file a copy of the risk-based capital plan or
7 revised risk-based capital plan with the insurance regulator in any state in which the
8 insurer is authorized to do business if:

9 (1) That state has a risk-based capital provision substantially similar to G.S.
10 58-12-21(a); and

11 (2) The insurance regulator of that state has notified the insurer of its
12 request for the filing in writing, in which case the insurer shall file a
13 copy of the risk-based capital plan or revised risk-based capital plan in
14 that state no later than the later of:

15 a. Fifteen days after the receipt of notice to file a copy of its risk-
16 based capital plan or revised risk-based capital plan with the
17 state; or

18 b. The date on which the risk-based capital plan or revised risk-
19 based capital plan is filed under ~~G.S. 58-12-30(e)~~ subsection (c)
20 or (d) of this section."

21 Sec. 22. G.S. 58-12-35(a) reads as rewritten:

22 "(a) All risk-based capital reports, to the extent the information therein is not
23 required to be set forth in a publicly available annual statement schedule, and the risk-
24 based capital plans, including the results or report of any examination or analysis of an
25 insurer performed pursuant hereto and any ~~Corrective Order~~ corrective order issued by the
26 Commissioner pursuant to examination or analysis, with respect to any domestic insurer
27 or foreign insurer that are filed with the Commissioner constitute information that shall
28 be kept confidential by the Commissioner. This information shall not be made public or
29 be subject to subpoena, other than by the Commissioner, and then only for the purpose of
30 enforcement actions taken by the Commissioner under this Article or any other provision
31 of this Chapter."

32 Sec. 23. G.S. 58-12-45 reads as rewritten:

33 **"§ 58-12-45. Foreign insurers.**

34 (a) Any foreign insurer shall, upon written request of the Commissioner, submit to
35 the Commissioner a risk-based capital report as of the end of the calendar year just ended
36 the later of:

37 (1) The date a risk-based capital report would be required to be filed by a
38 domestic insurer under this Article; or

39 (2) Fifteen days after the request is received by the foreign insurer.

40 Any foreign insurer shall, at the written request of the Commissioner, promptly submit to
41 the Commissioner a copy of any risk-based capital plan that is filed with the insurance
42 regulator of any other state.

1 (b) In the event of a company action level ~~event or event~~, regulatory action level
2 ~~event-event~~, or authorized control level event with respect to any foreign insurer as
3 determined under the risk-based capital statute or rule applicable in the state of domicile
4 of the insurer, or if no risk-based capital ~~provision-statute or rule~~ is in force in that state
5 under the provisions of this Article, if the insurance regulator of the state of domicile of
6 the foreign insurer fails to require the foreign insurer to file a risk-based capital plan in
7 the manner specified under the risk-based capital statute or, if no risk-based capital
8 provision is in force in that state, under G.S. 58-12-11, the Commissioner may require the
9 foreign insurer to file a risk-based capital plan with the Commissioner. In that event the
10 failure of the foreign insurer to file a risk-based capital plan with the Commissioner is
11 grounds to order the insurer to cease and desist from writing new insurance business in
12 this State.

13 (c) In the event of a mandatory control level event with respect to any foreign
14 insurer, if no domiciliary receiver has been appointed with respect to the foreign insurer
15 under the rehabilitation or liquidation statutes of the state ~~or~~ of domicile of the foreign
16 insurer, the Commissioner may make application to the Superior Court of Wake County
17 as permitted under Article 30 of this Chapter with respect to the liquidation of property of
18 foreign insurers found in this State; and the occurrence of the mandatory control level
19 event is an adequate ground for the application."

20 Sec. 24. G.S. 58-14-15 reads as rewritten:

21 "**§ 58-14-15. Penalties provided for unauthorized acts.**

22 ~~Whenever~~ When any domestic insurer ~~shall knowingly engage~~ knowingly engages in the
23 practice of soliciting, advertising or making contracts for insurance in states or
24 jurisdictions in which it is not licensed, the Commissioner ~~shall be authorized, as hereinafter~~
25 ~~provided, to~~ may issue an order requiring ~~such~~ the company to cease and desist from
26 engaging in such activities and, for the purposes of this section, the acts prohibited by
27 G.S. 58-14-10 and the foregoing sections, are declared to be an unfair trade practice
28 within the meaning of G.S. 58-63-15 and 58-63-40. ~~Provided, whenever~~ When the
29 Commissioner ~~shall have~~ has reason to believe that any domestic company has been
30 engaged or is engaging in the practice of knowingly soliciting, advertising or writing
31 contracts of insurance on risks within a state or jurisdiction in which it is not licensed, ~~he~~
32 the Commissioner shall ~~proceed to serve~~ the company with notice of hearing and the
33 hearing shall ~~in all respects~~ conform with the hearing procedure set forth in G.S. 58-63-25.
34 Any action taken by the Commissioner after ~~such~~ the hearing shall ~~be in compliance~~
35 comply with ~~G.S. 58-63-30, G.S. 58-63-32,~~ and any company aggrieved by an order of the
36 Commissioner ~~shall be~~ is entitled to ~~that~~ the judicial review ~~as is provided~~ in G.S. 58-63-
37 35."

38 Sec. 25. G.S. 58-16-5(6) reads as rewritten:

39 "(6) Satisfies the Commissioner that it is in substantial compliance with the
40 provisions of G.S. 58-7-21, 58-7-26, 58-7-30, and ~~58-7-32~~ 58-7-31 and
41 Article 13 of this Chapter."

42 Sec. 26. G.S. 58-19-25(a) reads as rewritten:

1 "(a) Every insurer that is licensed to do business in this State and that is a member
2 of an insurance holding company system shall register with the Commissioner, except a
3 foreign insurer subject to the registration requirements and standards adopted by statute
4 or regulation in the jurisdiction of its domicile that are substantially similar to those
5 contained in this section and ~~G.S. 58-19-30(a), 58-19-30(b), 58-19-30(c), and 58-19-30(d),~~
6 G.S. 58-19-30 or a provision such as the following: Each registered insurer shall keep
7 current the information required to be disclosed in its registration statement by reporting
8 all material changes or additions within 15 days after the end of the month in which it
9 learns of each change or addition. The insurer shall also file a copy of its registration
10 statement and any amendments to the statement in each state in which that insurer is
11 authorized to do business if requested by the insurance regulator of that state. Any insurer
12 that is subject to registration under this section shall register within 30 days after it
13 becomes subject to registration, and an amendment to the registration statement shall be
14 filed by March 1 of each year for the previous calendar year; unless the Commissioner
15 for good cause shown extends the time for registration or filing, and then within the
16 extended time. All registration statements shall contain a summary, on a form prescribed
17 by the Commissioner, outlining all items in the current registration statement representing
18 changes from the prior registration statement. The Commissioner may require any insurer
19 that is a member of a holding company system that is not subject to registration under this
20 section to furnish a copy of the registration statement or other information filed by the
21 insurance company with the insurance regulator of its domiciliary jurisdiction."

22 Sec. 27. G.S. 58-19-35(c) reads as rewritten:

23 "(c) Each registered insurer or acquiring party producing records, books, or papers
24 for examination pursuant to subsection (a) of this section is liable for and shall pay the
25 expenses of ~~such the~~ examination in accordance with ~~G.S. 58-2-130~~ G.S. 58-2-133 and
26 G.S. 58-6-5."

27 Sec. 28. G.S. 58-21-40(c) reads as rewritten:

28 "(c) The Commissioner may, at ~~such times that he deems to be~~ deemed appropriate,
29 make or cause to be made an examination of each advisory organization; in which case
30 the provisions of ~~G.S. 58-2-130, 58-2-140, G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-150,~~
31 ~~58-2-155, 58-2-180, 58-2-185, 58-2-190, 58-2-195, and 58-2-200~~ shall apply. If the
32 Commissioner finds ~~such the~~ advisory organization or any member thereof to be in
33 violation of this Article, ~~he the Commissioner~~ may issue an order requiring the
34 discontinuance of ~~such the~~ violation."

35 Sec. 29. G.S. 58-24-100 reads as rewritten:

36 "**§ 58-24-100. Investments.**

37 A society shall invest its funds only in ~~such investments as that~~ are authorized by the
38 laws of this State for the investment of assets of life insurers and subject to the limitations
39 thereon. Any foreign or alien society permitted or seeking to do business in this State
40 must comply in substance with the investment requirements and limitations imposed by
41 ~~G.S. 58-7-85~~ Article 7 of this Chapter and applicable to life insurers; provided, that any
42 ~~such~~ society that invests its funds in accordance with the laws of the state, district,
43 territory, country, or province in which it is incorporated, shall thereby be deemed to be

1 in compliance with ~~G.S. 58-7-85~~ the investment requirements and limitations for a period
2 of two years from January 1, 1988."

3 Sec. 30. G.S. 58-28-5(b) reads as rewritten:

4 "(b) Any person in this State may directly procure or directly renew insurance with
5 an unlicensed insurer without the involvement of an agent, broker, or surplus lines
6 licensee, on a risk located or to be performed, in whole or in part, in this State, ~~other than~~
7 ~~insurance procured or renewed pursuant to subsections (a)(1) through (a)(6) of this section.~~
8 State. ~~Any such~~ The person shall, within 30 days after the date the insurance is procured
9 or renewed, file a written report with the Commissioner on forms prescribed by the
10 Commissioner. The report must contain the name and address of the insured; name and
11 address of the insurer; the subject of insurance; a general description of the coverage; the
12 amount of premium currently charged; and ~~such any~~ additional information ~~as requested~~
13 by the Commissioner. The report must also contain an affidavit of the insured that states
14 that the full amount or kind of insurance cannot be obtained from insurers that are
15 admitted to do business in this State; and that the insured has made a diligent search
16 among the insurers that are admitted to transact and are actually writing the particular
17 kind and class of insurance in this State. Gross premiums charged for ~~such the~~ insurance,
18 less any return premiums, are subject to a tax at the rate of five percent (5%). At the time
19 of filing the report required by this subsection, the insured shall pay the tax to the
20 Commissioner. The Commissioner has the powers specified in G.S. 58-21-90 with
21 respect to the tax levied by this subsection."

22 Sec. 31. G.S. 58-30-75(9) reads as rewritten:

23 "(9) Within the previous four years the insurer has willfully violated its
24 charter or articles of incorporation, its bylaws, Articles 1 through ~~64-67~~
25 of this Chapter, or any valid order of the Commissioner under G.S. 58-
26 30-60."

27 Sec. 32. G.S. 58-30-300(c) reads as rewritten:

28 "(c) The owner of a ~~secure~~ secured claim against an insurer for which a liquidator
29 has been appointed in this or any other state may surrender ~~his the owner's~~ security and
30 file ~~his the~~ claim as a general creditor, or the claim may be discharged by resort to the
31 security in accordance with G.S. 58-30-215 in which case the deficiency, if any, shall be
32 treated as a claim against the general assets of the insurer on the same basis as claims of
33 unsecured creditors."

34 Sec. 33. G.S. 58-31-60(a) reads as rewritten:

35 "(a) Employee Insurance Committee. – The head of each State government
36 employee payroll unit offering payroll deduction insurance products to employees shall
37 appoint an Employee Insurance Committee for the following purposes:

38 (1) To review insurance products currently offered through payroll
39 deduction to the State employees in the Employee Insurance
40 Committee's payroll unit to determine if those products meet the needs
41 and desires of employees in the Employee Insurance Committee's
42 payroll unit.

1 (2) To select the types of insurance products that reflect the needs and
2 desires of employees in the Employee Insurance Committee's payroll
3 unit.

4 (3) To competitively select the best insurance products of the types
5 determined by the Employee Insurance Committee to reflect the needs
6 and desires of the employees of that payroll unit.

7 As used in this section, 'insurance product' includes a prepaid legal services plan
8 registered under G.S. 84-23.1."

9 Sec. 34. G.S. 58-34-2(a)(3) reads as rewritten:

10 "(3) 'Managing general agent' or 'MGA' means any person who manages all
11 or part of the insurance business of an insurer (including the
12 management of a separate division, department, or underwriting office)
13 and acts as an agent for the insurer, whether known as a managing
14 general agent, manager, or other similar term, who, with or without the
15 authority, either separately or together with persons under common
16 control, produces, directly or indirectly, and underwrites an amount of
17 gross direct written premium equal to or more than five percent (5%) of
18 the policyholder surplus as reported in the last annual statement of the
19 insurer in any one quarter or year together with one or more of the
20 following activities related to the business produced: (i) adjusts or pays
21 any claims, or (ii) negotiates reinsurance on behalf of the insurer. 'MGA'
22 does not mean an employee of the insurer; an underwriting manager
23 who, pursuant to contract, manages ~~all~~ all or part of the insurance
24 operations of the insurer, is under common control with the insurer, is
25 subject to Article 19 of this Chapter, and whose compensation is not
26 based on the volume of premiums written; a person who, under Article
27 15 of this Chapter, is designated and authorized by subscribers as the
28 attorney-in-fact for a reciprocal having authority to obligate them on
29 reciprocal and other insurance contracts; or a U.S. Manager of the
30 United States branch of an alien insurer."

31 Sec. 35. Reserved.

32 Sec. 36. Reserved.

33 Sec. 37. G.S. 58-41-50(b) reads as rewritten:

34 "(b) With the exception of inland marine insurance that is not written according to
35 manual rates and rating plans, all rates or prospective loss cost multipliers by licensed fire
36 and casualty companies or their designated rating organizations must be filed with the
37 Commissioner at least 60 days before they may be used in this State. Any filing may
38 become effective on a date earlier than that specified in this subsection upon agreement
39 between the Commissioner and the filer."

40 Sec. 38. G.S. 58-47-5(4) reads as rewritten:

41 "(4) 'Health care provider' means any person who pursuant to the provisions
42 of Chapter 90 of the General Statutes is licensed, or is otherwise
43 registered or certified to engage in the practice of, or otherwise performs

1 duties associated with any of the following: medicine, surgery,
2 dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry,
3 chiropractic, radiology, nursing, physiotherapy, pathology,
4 anesthesiology, anesthesia, laboratory analysis, rendering assistance to a
5 physician, dental hygiene, psychiatry, psychology; or a hospital as
6 defined by ~~G.S. 131-126.1(3);~~ G.S. 131E-76(3); or a nursing home as
7 defined by ~~G.S. 130-9(e)(2);~~ G.S. 131E-101(6); or any other person who
8 is legally responsible for the negligence of ~~such~~ the person, hospital or
9 nursing home; or any person acting at the direction or under the
10 supervision of a health care provider."

11 Sec. 39. G.S. 58-47-10(b) reads as rewritten:

12 "(b) Investment and Management. – All moneys ~~which~~ that belong to the fund and
13 are collected or received under this Article shall be held in trust, deposited in a segregated
14 account, invested and reinvested by the Board in accordance with the reserve investment
15 requirements of ~~G.S. 58-7-90;~~ Article 7 of this Chapter for property and liability insurers,
16 and shall not become a part of the general fund of the State. All interest and revenues
17 from moneys belonging to the fund shall inure solely to the benefit and use of the fund.
18 The Board shall be authorized to withdraw funds from ~~such~~ the account as amounts
19 payable under G.S. 58-47-35 and other expenses become due and payable. No part of the
20 revenues or assets of the fund shall inure to the benefit of or be distributable to the Board
21 or any member thereof or any officer or employee of the Board, except for services
22 rendered. All expenses and salaries connected with the administration and operation of
23 the fund shall be paid out of the fund."

24 Sec. 40. G.S. 58-49-5 reads as rewritten:

25 "**§ 58-49-5. Authority and jurisdiction of Commissioner.**

26 Notwithstanding any other provision of law, and except as provided in this Article,
27 any person that provides coverage in this State for medical, surgical, chiropractic,
28 physical therapy, speech pathology, audiology, professional mental health, dental,
29 hospital, or optometric expenses, whether ~~such~~ the coverage is by direct payment,
30 reimbursement, or otherwise, shall be presumed to be subject to the ~~exclusive~~ jurisdiction
31 of the Commissioner, unless the person shows that while providing ~~such~~ the services it is
32 subject to the exclusive jurisdiction of another agency or subdivision of this State or of
33 the federal government."

34 Sec. 41. Effective October 1, 1998, G.S. 58-50-30(a) reads as rewritten:

35 "(a) Discrimination between individuals of the same class in the amount of
36 premiums or rates charged for any policy of insurance covered by Articles 50 through 55
37 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of
38 ~~such~~ the policy, or in any other manner whatsoever, is prohibited.

39 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
40 provides for payment of or reimbursement for any service rendered in connection with a
41 condition or complaint ~~which~~ that is within the scope of practice of a duly licensed
42 optometrist, ~~or~~ a duly licensed podiatrist, ~~or~~ a duly licensed dentist, ~~or~~ a duly licensed
43 chiropractor, a duly certified clinical social worker, or a duly licensed psychologist, the

1 insured or other persons entitled to benefits under ~~such~~ the policy shall be entitled to
2 payment of or reimbursement for ~~such~~ the services, whether ~~such~~ the services be
3 performed by a duly licensed physician, ~~or~~ a duly licensed optometrist, ~~or~~ a duly licensed
4 podiatrist, ~~or~~ a duly licensed dentist, ~~or~~ a duly licensed chiropractor, a duly certified
5 clinical social worker, or a duly licensed psychologist, notwithstanding any provision
6 contained in ~~such~~ the policy. Whenever any policy of insurance governed by Articles 1
7 through 64 of this Chapter provides for certification of disability ~~which~~ that is within the
8 scope of practice of a duly licensed physician, ~~or~~ a duly licensed optometrist, ~~or~~ a duly
9 licensed podiatrist, ~~or~~ a duly licensed dentist, ~~or~~ a duly licensed chiropractor, a duly
10 certified clinical social worker, or a duly licensed psychologist, the insured or other
11 persons entitled to benefits under ~~such~~ the policy shall be entitled to payment of or
12 reimbursement for ~~such~~ the disability whether ~~such~~ the disability be certified by a duly
13 licensed physician, ~~or~~ a duly licensed optometrist, ~~or~~ a duly licensed podiatrist, ~~or~~ a duly
14 licensed dentist, ~~or~~ a duly licensed chiropractor, a duly certified clinical social worker, or
15 a duly licensed psychologist, notwithstanding any provisions contained in ~~such~~ the policy.
16 The policyholder, insured, or beneficiary shall have the right to choose the provider of
17 ~~such~~ the services notwithstanding any provision to the contrary in any other statute.

18 Whenever any policy of insurance provides coverage for medically necessary
19 treatment, the insurer shall not impose any limitation on treatment or levels of coverage if
20 performed by a duly licensed chiropractor acting within the scope of ~~his~~ the chiropractor's
21 practice as defined in G.S. 90-151 unless a comparable limitation is imposed on ~~such~~ the
22 medically necessary treatment if performed or authorized by any other duly licensed
23 physician."

24 Sec. 42. G.S. 58-50-65(d) reads as rewritten:

25 "(d) The provisions of ~~Articles 50 through 55 of this Chapter contained in~~
26 ~~subdivision (5) of G.S. 58-51-5, and clauses (2), (3), (8), and (12) of G.S. 58-251~~ G.S.
27 58-51-5(5) and G.S. 58-51-15(a)(1), (4), and (10) may be omitted from railroad ticket
28 policies sold only at railroad stations or at railroad ticket offices by railroad employees."

29 Sec. 43. G.S. 58-51-115(a) reads as rewritten:

30 "(a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

31 (1) 'Health benefit plan' means any accident and health insurance policy or
32 certificate; a nonprofit hospital or medical service corporation contract;
33 a health maintenance organization subscriber contract; a plan provided
34 by a multiple employer welfare arrangement; or a plan provided by
35 another benefit arrangement. 'Health benefit plan' does not mean a
36 Medicare supplement policy as defined in G.S. 58-54-1(5).

37 (2) 'Health insurer' means any health insurance company subject to Articles
38 1 through 63 of this Chapter, including a multiple employee welfare
39 arrangement, and any corporation subject to Articles 65 and 67 of this
40 Chapter; and means a group health plan, as defined in section 607(1) of
41 the Employee Retirement Income Security Act of 1974."

42 Sec. 44. G.S. 108A-69(a) reads as rewritten:

43 "(a) As used in this section and in G.S. 108A-70:

- 1 (1) 'Health benefit plan' means an accident and health insurance policy or
2 certificate; a nonprofit hospital or medical service corporation contract;
3 a health maintenance organization subscriber contract; a plan provided
4 by a multiple employer welfare arrangement; or a plan provided by
5 another benefit arrangement. 'Health benefit plan' does not mean a
6 Medicare supplement policy as defined in G.S. 58-54-1(5).
- 7 (2) 'Health insurer' means any health insurance company subject to Articles
8 1 through 63 of Chapter 58 of the General Statutes, including a multiple
9 employee welfare arrangement, and any corporation subject to Articles
10 65 and 67 of Chapter 58 of the General Statutes; and means a group
11 health plan, as defined in Section 607(1) of the Employee Retirement
12 Income Security Act of 1974."

13 Sec. 45. G.S. 58-57-5 reads as rewritten:

14 **"§ 58-57-5. Definitions.**

15 As used in this Article, unless the context requires otherwise, the following words or
16 terms shall have the meanings herein ascribed to them, respectively:

- 17 (1) Repealed by Session Laws 1991, c. 720, s. 6.
- 18 (2) 'Credit accident and health insurance' means insurance on a debtor to
19 provide indemnity for payments becoming due on a specific loan or
20 other credit transaction as defined in ~~G.S. 58-51-100~~; G.S. 58-51-100.
- 21 (2a) 'Credit insurance agent' means an agent of an insurance company
22 licensed in this State who is authorized to solicit, negotiate or effect
23 credit life insurance, credit accident and health insurance, credit
24 unemployment insurance, credit property insurance, or any of them, but
25 only to the extent as is authorized and limited in this ~~Article~~; Article.
- 26 (3) 'Credit life insurance' means insurance on the life of a debtor pursuant to
27 or in connection with a specific loan or other credit transaction as
28 defined in ~~G.S. 58-58-10~~; G.S. 58-58-10.
- 29 (4) Recodified as G.S. § 58-57-5(2a) (See Note.)
- 30 (4a) 'Credit transaction' means any transaction by the terms of which the
31 repayment of money loaned or loan commitment made, or payment for
32 goods, services, or properties sold or leased, is to be made at a future
33 date or ~~dates~~; dates.
- 34 (4b) 'Credit unemployment insurance' means insurance on a debtor in
35 connection with a specified loan or other credit transaction to provide
36 payment to a creditor of the debtor for the installment payments or other
37 periodic payment becoming due while the debtor is involuntarily
38 unemployed as defined in the ~~policy~~; policy.
- 39 (5) 'Creditor' means any lender of money or vendor or lessor of goods,
40 services, property, rights or privileges, including any person that
41 directly or indirectly provides credit in connection with any such sale or
42 lease, for which payment is arranged through a credit-related
43 transaction; or any successor to the right, title or interest of any such

1 lender, vendor, lessor, or person extending credit, and an affiliate,
2 associate, or subsidiary of any of them, or any director, officer, or
3 employee of any of them or any other person in any way associated with
4 any of ~~them~~; them.

5 (6) 'Debtor' means a borrower of money or a purchaser or lessee of goods,
6 services, property, rights or privileges for which payment is arranged
7 through a credit ~~transaction~~; transaction.

8 (7) 'Indebtedness' means the total amount payable for the term of the loan
9 by debtor to creditor in connection with a loan or other credit
10 transaction, including principal, interest, allowable charges, and any
11 premiums authorized ~~hereunder~~; hereunder.

12 (7a) 'Joint accident and health coverage' means credit accident and health
13 insurance covering two or more debtors; provided that only one monthly
14 benefit, as defined in G.S. 58-57-15(b), shall be payable each month on
15 a specific indebtedness regardless of the number of debtors ~~insured~~;
16 insured.

17 (8) 'Joint life coverage' means credit life insurance covering two or more
18 lives, the entire amount of insurance being payable upon the death of the
19 first insured debtor to ~~die~~; die.

20 (9) 'Lease' means a contract whereby the lessee of a 'motor vehicle,' as
21 defined in G.S. 20-4.01(23), contracts to pay as compensation for use a
22 sum substantially equivalent to or in excess of the aggregate value of the
23 property, but not exceeding the term of years in G.S. 58-57-1.

24 (10) 'Open-end credit' means credit extended by a creditor under an
25 agreement in which:

- 26 a. The creditor reasonably contemplates repeated transactions;
27 b. The creditor imposes a finance charge from time to time on an
28 outstanding unpaid balance; and
29 c. The amount of credit that may be extended to the debtor during
30 the term of the agreement (up to any limit set by the creditor) is
31 generally made available to the extent that any outstanding
32 balance is repaid.

33 'Open-end credit' includes credit card balances.

34 (11) 'Truncated coverage' means a credit insurance benefit with a term of
35 insurance coverage that is less than the term of the credit ~~transaction~~;
36 transaction."

37 Sec. 46. G.S. 58-58-110(c) reads as rewritten:

38 "(c) ~~Nothing contained herein shall be construed to allow any insurer admitted to~~
39 ~~transact insurance in this State. This section does not allow an insurer to withhold~~
40 ~~payment of money payable under a life or accident insurance any policy providing a~~
41 ~~death benefit issued in this State to any beneficiary for a period longer than reasonably~~
42 ~~necessary to determine whether benefits are payable and thereafter to transmit such the~~
43 ~~payment.~~"

1 Sec. 47. G.S. 58-62-41(e) reads as rewritten:

2 "(e) Assessments for funds to meet the requirements of the Association with respect
3 to a delinquent insurer shall not be made until necessary to implement the purposes of
4 this Article. Classification of assessments under subsection (b) of this section and
5 computation of assessments under this subsection shall be made with a reasonable degree
6 of ~~accuracy~~-accuracy, recognizing that exact determinations may not always be possible."

7 Sec. 48. G.S. 58-62-41(f) reads as rewritten:

8 "(f) The Association may abate or defer, in whole or in part, the assessment of a
9 member insurer if, in the Board's opinion, payment of the assessment would endanger the
10 member insurer's ability to fulfill its contractual obligations. If an assessment against a
11 member insurer is abated, or deferred in whole or in part, the amount by which the
12 assessment is abated or deferred may be assessed against the other member insurers in a
13 manner consistent with the basis for assessments set forth in this section, ~~recognizing that~~
14 ~~exact determinations may not always be possible~~-section."

15 Sec. 49. G.S. 58-63-25(a) reads as rewritten:

16 "~~Whenever~~-When the Commissioner shall ~~have~~-has reason to believe that any
17 ~~such~~-person has been engaged or is engaging in this State in any unfair method of
18 competition or any unfair or deceptive act or practice defined in ~~G.S. 58-63-15~~, G.S. 58-
19 63-15 or under G.S. 58-63-65, and that a proceeding by ~~him~~ in respect thereto ~~the~~
20 Commissioner on the matter would be ~~to~~-in the interest of the public, ~~he~~-the
21 Commissioner shall issue and serve upon such-the person a statement of the charges in
22 that respect and a notice of the hearing ~~thereon~~-on the matter to be held at the time and
23 place fixed in the notice, which shall not be less than 10 days after the date of the service
24 ~~thereof~~-of the notice."

25 Sec. 50. G.S. 58-63-35(a) reads as rewritten:

26 "(a) Any person required by an order of the Commissioner under ~~G.S. 58-63-30~~-G.S.
27 58-63-32 to cease and desist from engaging in any unfair method of competition or any
28 unfair or deceptive act or practice defined in G.S. 58-63-15 may obtain a review of ~~such~~
29 the order by filing in the Superior Court of Wake County, within 30 days from the date of
30 the service of such order, a written petition praying that the order of the Commissioner be
31 set aside. A copy of ~~such~~-the petition shall be ~~forthwith~~-immediately served upon the
32 Commissioner, and ~~thereupon~~-at that time the Commissioner ~~forthwith~~-immediately shall
33 certify and file in ~~such~~-the court a transcript of the entire record in the proceeding,
34 including all the evidence taken and the report and order of the Commissioner. Upon
35 ~~such~~-the filing of the petition and ~~transcript~~-such-transcript, ~~the court shall have~~-has
36 jurisdiction of the proceeding and of the question determined therein, shall determine
37 whether the filing of ~~such~~-the petition shall operate as a stay of ~~such~~-order of the
38 ~~Commissioner~~, the Commissioner's order, and ~~shall have~~-has power to make and enter upon
39 the pleadings, evidence, and proceedings set forth in ~~such~~-the transcript a decree
40 modifying, affirming or reversing the order of the Commissioner, in whole or in part.
41 The findings of the Commissioner as to the facts, if supported by substantial evidence,
42 ~~shall be~~-are conclusive."

43 Sec. 51. G.S. 58-63-50 reads as rewritten:

1 **"§ 58-63-50. Penalty.**

2 Any person who willfully violates a cease and desist order of the Commissioner under
3 ~~G.S. 58-63-30, G.S. 58-63-32,~~ after it has become final, and while ~~such~~ the order is in
4 effect, shall forfeit and pay to the Commissioner for the use of the public schools of the
5 county or counties in which the act or acts complained of occurred the sum of not less
6 than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each
7 violation, which if not paid shall be recovered in a civil action instituted in the name of
8 the Commissioner in the Superior Court of Wake County."

9 Sec. 52. G.S. 58-64-33(a) reads as rewritten:

10 "(a) All continuing care facilities shall maintain after opening: operating reserves
11 equal to fifty percent (50%) of the total operating costs projected for the 12-month period
12 following the period covered by the most recent annual statement filed with the
13 Department. The forecast statements as required by G.S. 58-64-20(a)(12) shall serve as
14 the basis for computing the operating reserve. In addition to total operating expenses,
15 total operating costs will include debt service, consisting of principal and interest
16 payments along with taxes and insurance on any mortgage loan or other long-term
17 financing, but will exclude depreciation, amortized expenses, and extraordinary items as
18 approved by the Commissioner. If the debt service portion is accounted for by way of
19 another reserve account, the debt service portion may be excluded. Facilities that
20 maintain an occupancy level in excess of ninety percent (90%) shall only be required to
21 maintain twenty-five percent (25%) operating reserve upon approval of the
22 Commissioner, unless otherwise instructed by the Commissioner. The operating reserves
23 may be funded by cash, by invested cash, or by investment grade securities, including
24 bonds, stocks, U.S. Treasury obligations, or obligations of U.S. government agencies."

25 Sec. 53. G.S. 58-64-55 reads as rewritten:

26 **"§ 58-64-55. Examinations; financial statements.**

27 The Commissioner or ~~his~~ the Commissioner's designee may, in the Commissioner's
28 discretion, visit a facility offering continuing care in this State to examine its books and
29 records. Expenses incurred by the Commissioner in conducting examinations under this
30 section shall be paid by the facility examined. The provisions of ~~G.S. 58-2-130, 58-2-135,~~
31 ~~58-2-140,~~ G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-155, 58-2-165, 58-2-180, 58-2-185,
32 ~~58-2-190,~~ and 58-6-5 apply to this Article and are hereby incorporated by reference."

33 Sec. 54. G.S. 58-64-70(c) reads as rewritten:

34 "(c) A person may not file or maintain an action under this section if the person,
35 before filing the action, received a written offer of a refund of all amounts paid the
36 provider, facility, or person violating this Article together with interest at the rate
37 established monthly by the Commissioner of Banks pursuant to ~~G.S. 24-1.1(3), G.S. 24-~~
38 ~~1.1(c),~~ less the current contractual value of care and lodging provided prior to receipt of
39 the offer, and if the offer recited the provisions of this section and the recipient of the
40 offer failed to accept it within 30 days of actual receipt."

41 Sec. 55. The heading of Part 2 of Article 65 of Chapter 58 of the General
42 Statutes reads as rewritten:

43 **"PART 2. INDEMNIFICATION."**

1 Sec. 56. G.S. 58-65-172(1) reads as rewritten:

2 "(1) An officer of the corporation is entitled to mandatory indemnification
3 under ~~G.S. 58-56-168~~ G.S. 58-65-168 and is entitled to apply for court-
4 ordered indemnification under G.S. 58-65-170, in each case to the same
5 extent as a director;"

6 Sec. 57. G.S. 58-66-30(a) reads as rewritten:

7 "(a) No insurer may make, issue, amend or renew any certificate or contract after
8 the dates specified in G.S. 58-66-35 for the applicable type of insurance unless the
9 certificate is in compliance with the provisions of G.S. 58-66-20 and 58-66-25, and
10 unless the certificate is filed with the Commissioner for ~~his~~ this approval. The policy will
11 be deemed approved 90 days after filing unless disapproved within the 90-day period.
12 The ~~Commission~~ Commissioner may not unreasonably withhold ~~his~~ this approval. Any
13 disapproval must be delivered to the insurer in writing and must state the grounds for
14 disapproval. Any certificate filed with the Commissioner must be accompanied by a
15 certified Flesch scale readability analysis and test score and by the insurer's certification
16 that the policy is, in the insurer's judgment, readable based on the factors specified in
17 G.S. 58-66-20 and 58-66-25."

18 Sec. 58. G.S. 58-66-35 reads as rewritten:

19 "**§ 58-66-35. Application to policies; dates; duties of the Commissioner.**

20 (a) The filing requirements of G.S. 58-66-30 apply to all subscribers' contracts of
21 hospital, medical, and dental service corporations as described in G.S. 58-65-60(a) and
22 (b) that are made, issued, amended or renewed after ~~July 1, 1983; and~~ July 1, 1983.

23 (b) ~~The Commissioner must make the following reports to the Legislative~~
24 ~~Research Commission and the General Assembly:~~

25 (1) ~~On or before March 31, 1980, a report detailing and evaluating the~~
26 ~~efforts made by the Commissioner and insurers to implement the~~
27 ~~provisions of subdivision (a)(1) of this section, and particularly~~
28 ~~examining the feasibility and practicality of requiring certificates to~~
29 ~~comply with the provisions of this Article and in the time prescribed;~~

30 (2) ~~On or before March 31, 1981, a report detailing and evaluating:~~

31 a. ~~The operation of and the extent of compliance with the~~
32 ~~provisions of this Article;~~

33 b. ~~The efforts made by the Commissioner and insurers to implement~~
34 ~~the provisions of subdivision (a)(2) of this section."~~

35 Sec. 59. G.S. 58-67-50(c) reads as rewritten:

36 "(c) The Commissioner shall, within a reasonable period, approve any form if the
37 requirements of ~~paragraph (1)~~ subsection (a) of this section are met and any schedule of
38 premiums if the requirements of ~~paragraph (2)~~ subsection (b) of this section are met. It
39 shall be unlawful to issue the form or to use the schedule of premiums until approved. If
40 the Commissioner disapproves the filing, the Commissioner shall notify the filer. In the
41 notice, the Commissioner shall specify the reasons for disapproval. A hearing will be
42 granted within 30 days after a request in writing by the person filing. If the Commissioner
43 does not approve or disapprove any form or schedule of premiums within 90 days after

1 the filing for forms and within 60 days after the filing for premiums, they shall be
2 deemed to be approved."

3 Sec. 60. G.S. 58-68A-1(4) reads as rewritten:

4 "(4) Focus health care reform upon improving health status and the included
5 health care."

6 Sec. 61. G.S. 58-68A-10(1) reads as rewritten:

7 "(1) Financing. – A method or methods of financing the Plan shall be
8 recommended by the Commission. The system ~~which~~ will ensure that
9 every North Carolina citizen has access to affordable health care,
10 regardless of the resources of the community in which ~~he~~ the citizen
11 resides."

12 Sec. 62. G.S. 58-68A-10(5) reads as rewritten:

13 "(5) Administration. – The Plan may be administered through regional health
14 plan purchasing cooperatives that will:

- 15 a. Certify private health plans as community health plans for
16 participation in the system of universal health coverage on the
17 basis of ability to deliver the State-guaranteed package of
18 comprehensive, medically necessary health services in
19 accordance with criteria defined by the Commission for quality
20 and service. All community health plans meeting certification
21 requirements will be certified.
- 22 b. Pay each community health plan the same risk-adjusted per
23 capita amount for all eligible persons, except that the
24 Commission shall have the authority to ensure accessibility to
25 health care in rural and medically underserved areas by
26 enhancing provider payments, requiring an accountable health
27 plan to provide services throughout the area, or by any other
28 reasonable means.
- 29 c. Ensure that no community health plan that charges an additional
30 premium shall charge an eligible resident a higher premium than
31 that charged to any other eligible resident for the same
32 accountable health plan.
- 33 d. Except in underserved areas in which the regional health plan
34 purchasing cooperative determines that there are insufficient
35 providers to support more than one community health plan,
36 ensure that all eligible residents have a choice of at least two
37 community health plans that will provide the State-guaranteed
38 package of comprehensive, medically necessary health services
39 for no additional premium above that paid on their behalf by the
40 regional health plan purchasing cooperative.
- 41 e. Assist eligible residents in choosing among community health
42 plans by providing consumer education, including uniform
43 information about all the community health plans available

- 1 through the health plan purchasing cooperative such as quality
2 indicators and choice of providers.
- 3 f. Provide a mechanism for enrolling all eligible residents in their
4 chosen community health plans and for automatically enrolling
5 in a community health plan all eligible residents who fail to
6 choose such a plan.
- 7 g. ~~The~~ Determine the number, organization, and geographic areas of
8 the regional health plan purchasing cooperatives to be
9 established, which will include at least six geographic areas.
10 Each area is to be defined so that it is self-sufficient in providing
11 comprehensive health care including most tertiary services, thus
12 allowing for a large enough population to support community
13 rating.
- 14 h. Monitor and enforce standards concerning access, consumer
15 satisfaction, and quality of health care in all community health
16 plans.
- 17 i. Jointly with the Commission and the North Carolina Medical
18 Database Commission, collect data from all community health
19 plans and sponsor research into health outcomes and practice
20 guidelines.
- 21 j. Jointly with the Commission and where necessary to meet the
22 needs of underserved areas or special populations, organize the
23 delivery of health care.
- 24 k. Receive bids annually from private health plans to provide the
25 benefit package established by the Commission to enrolled
26 eligible residents. A health plan purchasing cooperative may
27 reject any or all bids, and may request that revised bids be
28 submitted."

29 Sec. 63. G.S. 58-68A-10(6) reads as rewritten:

30 "(6) Large Groups. – In order to preserve employer-based and other group
31 health care coverage, the Plan may provide, notwithstanding any other
32 provision of this Article, for the direct marketing by community health
33 plans to an employer with 100 or more employees and to any other
34 group with 100 or more members, provided that the employer or group
35 is eligible under G.S. 58-51-80 for group accident, group health, or
36 group accident and health insurance. If the Plan provides for direct
37 marketing of insurance to large groups as defined in this ~~subsection,~~
38 subdivision, it shall also address the extent to which those groups and
39 self-insured plans (prior to obtaining an ERISA waiver) should be
40 subject to the certification requirements for community health plans,
41 whether exemptions, tax credits, or other means are necessary and
42 appropriate to provide for equitable treatment of large groups and self-
43 insured groups under any tax-financed system of universal health care

1 coverage, and other issues involving the use of large group coverage
2 with universal coverage. The regional health plan purchasing
3 cooperatives would be responsible for marketing community health
4 plans to individuals and all other groups. Before the plan provides for
5 direct marketing to large groups, the Commission shall study whether
6 there are any adverse affects to the purchasing arrangements in effect
7 for other residents, the impact on portability of coverage, and the role
8 large employers play in financing coverage for the uninsured and
9 indigent populations."

10 Sec. 64. G.S. 97-93(d) reads as rewritten:

11 "(d) Groups comprising two or more employers who agree to pool their liabilities
12 under subdivision (a)(2) of this section are subject to ~~G.S. 58-3-80~~, G.S. 58-3-81, 58-7-50,
13 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-
14 170, 58-7-172, 58-7-173, 58-7-177, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187,
15 58-7-188, ~~58-7-190~~, 58-7-192, 58-7-193, 58-7-195, 58-7-197, 58-7-200, and Articles 13,
16 19, and 34 of Chapter 58 of the General Statutes."

17 Sec. 65. G.S. 105-228.4 reads as rewritten:

18 "**§ 105-228.4. Annual ~~registration~~-license fees for insurance companies.**

19 (a) As a condition precedent to doing business in this State, an insurance company
20 must apply for and obtain a ~~certificate of registration~~-license from the Commissioner of
21 Insurance by March 1 of each year. The ~~certificate~~-license shall become effective the
22 following July 1 and shall remain in effect for one year. Except as provided in
23 subsections (b) and (c) of this section, the insurance company shall pay an annual fee for
24 the ~~certificate~~-license as follows:

25 For each domestic farmer's mutual assessment

26 fire insurance company \$ 25.00

27 For each fraternal order 100.00

28 For each of all other insurance companies, except

29 mutual burial associations taxed under G.S.

30 105-121.1500.00

31 The fees levied in this subsection shall be in addition to those specified in G.S. 58-6-
32 5.

33 (b) When the paid-in capital stock and/or surplus of an insurance company other
34 than a farmer's mutual assessment company or a fraternal order does not exceed one
35 hundred thousand dollars (\$100,000), the fee levied in this section shall be one half the
36 amount above specified.

37 (c) Upon payment of the fee specified above and the fees and taxes elsewhere
38 specified each insurance company, exchange, bureau, or agency, shall be entitled to do
39 the types of business specified in Chapter 58, of the General Statutes of North Carolina as
40 amended, to the extent authorized therein, except that: Insurance companies authorized to
41 do either the types of business specified for (i) life insurance companies, or (ii) for fire
42 and marine companies, or (iii) for casualty and fidelity and surety companies, in G.S. 58-
43 7-75, which shall also do the types of business authorized in one or both of the other of

1 the above classifications shall in addition to the fees above specified pay one hundred
2 dollars (\$100.00) for each such additional classification of business done.

3 (d) Any rating bureau established by action of the General Assembly of North
4 Carolina shall be exempt from the fees above levied."

5 Sec. 66. G.S. 143-215.94I(g) reads as rewritten:

6 "(g) Each pool shall be audited annually at the expense of the pool by a certified
7 public accounting firm, with a copy of the report available to the governing body or chief
8 executive officer of each member of the pool and to the Commissioner. The board of
9 trustees of the pool shall obtain an appropriate actuarial evaluation of the loss and loss
10 adjustment expense reserves of the pool, including an estimate of losses and loss
11 adjustment expenses incurred but not reported. The provisions of ~~G.S. 58-2-130, G.S. 58-~~
12 ~~2-131, 58-2-132, 58-2-133, 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190,~~
13 ~~58-2-200, and 58-6-5~~ apply to each pool and to persons that administer ~~such~~ the pools.
14 Annual financial statements required by G.S. 58-2-165 shall be filed by each pool within
15 60 days after the end of the pool's fiscal year. All financial statements required by this
16 section shall be prepared in accordance with generally accepted statutory accounting
17 principles."

18 Sec. 67. If any section or provision of this act is declared unconstitutional or
19 invalid by the courts, it does not affect the validity of the act as a whole or any part other
20 than the part declared to be unconstitutional or invalid.

21 Sec. 68. Except as otherwise provided herein, this act is effective upon
22 ratification.