

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 975

Short Title: Workers' Compensation Self-Insurance.

(Public)

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Sponsors: Senators Kincaid and Jenkins.

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Referred to: Pensions & Retirement and Insurance.

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April 21, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REWRITE THE LAWS CONCERNING EMPLOYER AND EMPLOYER  
2 GROUP WORKERS' COMPENSATION SELF-INSURANCE AND CODIFY  
3 RELATED ADMINISTRATIVE RULES AND TO PROVIDE FOR GUIDELINES  
4 FOR PERSONS AND ENTITIES THAT ADMINISTER OR SERVICE WORKERS'  
5 COMPENSATION BUSINESS FOR SELF-INSURED EMPLOYERS AND  
6 EMPLOYER GROUPS.  
7

8 The General Assembly of North Carolina enacts:

9 Section 1. The heading of Article 47 of Chapter 58 of the General Statutes  
10 reads as rewritten:

11 ~~"NORTH CAROLINA HEALTH CARE EXCESS LIABILITY FUND.~~  
12 **WORKERS' COMPENSATION SELF-INSURANCE.**"

13 Section 2. G.S. 58-47-1, 58-47-5, 58-47-10, 58-47-15, 58-47-20, 58-47-25,  
14 58-47-30, 58-47-35, 58-47-40, 58-47-45, and 58-47-50 are repealed.

15 Section 3. Article 47 of Chapter 58 of the General Statutes is amended by  
16 adding the following:

17 **"PART 1. EMPLOYER GROUPS.**

18 **"§ 58-47-60. Definitions.**

19 As used in this Part:

- 1           (1) 'Act' means the Workers' Compensation Act in Article 1 of Chapter 97  
2           of the General Statutes, as amended.
- 3           (2) 'Affiliate' has the same meaning as in G.S. 58-19-5(1).
- 4           (3) 'Annual statement filing' means the most recent annual filing made with  
5           the Commissioner under G.S. 58-2-165.
- 6           (4) 'Board' means the board of trustees or other governing body of a group.
- 7           (5) 'Books and records' means all files, documents, and databases in a paper  
8           form, electronic medium, or both.
- 9           (6) 'GAAP financial statement' means a financial statement as defined by  
10          generally accepted accounting principles.
- 11          (7) 'Group' means two or more employers who agree to pool their workers'  
12          compensation liabilities under the Act and are licensed under this Part.
- 13          (8) 'Hazardous financial condition' means that, based on its present or  
14          reasonably anticipated financial condition, a person, although not  
15          financially impaired or insolvent, is unlikely to be able to meet  
16          obligations for known claims and reasonably anticipated claims or to  
17          pay other obligations in the normal course of business.
- 18          (9) 'Member' means an employer that participates in a group.
- 19          (10) 'Qualified actuary' means a member in good standing of the Casualty  
20          Actuarial Society or a member in good standing of the American  
21          Academy of Actuaries, who has been approved as qualified for signing  
22          casualty loss reserve opinions by the Casualty Practice Council of the  
23          American Academy of Actuaries, and is in compliance with G.S. 58-2-  
24          171.
- 25          (11) 'Rate' means the cost of insurance per exposure unit, whether expressed  
26          as a single number or as a prospective loss cost with an adjustment to  
27          account for the treatment of expenses, profit, and variations in loss  
28          experience, before any application of individual risk variations based on  
29          loss or expense considerations, and does not include minimum  
30          premiums.
- 31          (12) 'Service company' means an entity that has contracted with an employer  
32          or group for the purpose of providing any services related to claims  
33          adjustment, loss control, or both.
- 34          (13) 'Third-party administrator' or 'TPA' means a person engaged by a board  
35          to execute the policies established by the board and to provide day-to-  
36          day management of the group. 'Third-party administrator' or 'TPA'  
37          does not mean:
- 38               a. An employer acting on behalf of its employees or the employees  
39               of one or more of its affiliates.
- 40               b. An insurer that is licensed under this Chapter or that is acting as  
41               an insurer with respect to a policy lawfully issued and delivered  
42               by it and under the laws of a state in which the insurer is licensed  
43               to write insurance.

- 1           c.     An agent or broker who is licensed by the Commissioner under  
2                 Article 33 of this Chapter whose activities are limited exclusively  
3                 to the sale of insurance.
- 4           d.     An adjuster licensed by the Commissioner under Article 33 of  
5                 this Chapter whose activities are limited to adjustment of claims.
- 6           e.     An employee of a board.
- 7     (14)   'Underwriting' means the process of selecting risks and classifying them  
8             according to their degrees of insurability so that the appropriate rates  
9             may be assigned. The process also includes rejection of those risks that  
10            do not qualify.

11 **"§ 58-47-65. Authority, qualification for approval.**

12     (a)   No group shall self-insure its workers' compensation liabilities under the Act  
13         unless it is licensed by the Commissioner under this Part.

14     (b)   An applicant for a license shall file with the Commissioner the information  
15         required by subsection (f) of this section on a form prescribed by the Commissioner at  
16         least 90 days before the proposed licensing date. The applicant shall furnish to the  
17         Commissioner satisfactory proof of the proposed group's financial ability, through its  
18         members, to comply with the Act. No application is complete until the Commissioner  
19         has received all required information.

20     (c)   The group shall comprise two or more employers who are members of and are  
21         sponsored by a single bona fide trade or professional association. The association shall  
22         (i) comprise members engaged in the same or substantially similar business or profession  
23         within the State, (ii) have been incorporated in North Carolina, (iii) have been in  
24         existence for at least five years before the date of application to the Commissioner to  
25         form a group, and (iv) submit a written determination from the Internal Revenue Service  
26         that it is exempt from taxation under 26 U.S.C. § 501(c). This subsection does not apply  
27         to a group that was organized and approved under North Carolina law before July 1,  
28         1995.

29     (d)   Only an applicant whose members' employee base is actuarially sufficient in  
30         numbers and provides an actuarially appropriate spreading of risk may apply for a  
31         license. The Commissioner shall consider (i) the financial strength and liquidity of the  
32         applicant relative to its ability to comply with the Act, (ii) the applicant's criteria and  
33         procedures regarding the review and monitoring of members' financial strength, (iii)  
34         reliability of the financial information, (iv) workers' compensation loss history, (v)  
35         underwriting guidelines, (vi) claims administration, (vii) excess insurance or reinsurance,  
36         and (viii) access to excess insurance or reinsurance.

37     (e)   Before issuing a license to any applicant, the Commissioner shall require, in  
38         addition to the other requirements provided by law, that the applicant file an affidavit  
39         signed by the association's governing board members that it has not violated any of the  
40         applicable provisions of this Part or the Act during the last 12 months, and that it accepts  
41         the provisions of this Part and the Act in return for the license.

42     (f)   The license application shall comprise the following information:

- 1           (1) Biographical affidavits providing the education, prior occupation,  
2 business experience, and other supplementary information submitted for  
3 each promoter, incorporator, director, trustee, proposed management  
4 personnel, and other persons similarly situated.
- 5           (2) A forecast for a five-year period based on the initial capitalization of the  
6 proposed group and its plan of operation. The forecast shall be prepared  
7 by a certified public accountant, a qualified actuary, or both, be in  
8 sufficient detail for a complete analysis to be performed, and be  
9 accompanied by a list of the assumptions utilized in making the  
10 forecast.
- 11          (3) An individual application, under G.S. 58-47-125, of each member  
12 applying for coverage in the proposed group on the inception date of the  
13 proposed group, with a current GAAP financial statement of the  
14 member. The financial statements are confidential, but the  
15 Commissioner may use them in any judicial or administrative  
16 proceeding.
- 17          (4) A breakdown of all forecasted administrative expenses for the proposed  
18 group's fiscal year in a dollar amount and as a percentage of the  
19 estimated annual premium.
- 20          (5) The proposed group's procedures for evaluating the current and  
21 continuing financial strength of members.
- 22          (6) Evidence of the coverage required by G.S. 58-47-95.
- 23          (7) Demonstration provided by the board, satisfactory to the Commissioner,  
24 that the proposed group's member employee base is actuarially  
25 sufficient in numbers and provides an actuarially appropriate spreading  
26 of risk.
- 27          (8) An assessment plan under G.S. 58-47-135(a).
- 28          (9) A listing of the estimated premium to be developed for each member  
29 individually and in total for the proposed group. Payroll data for each  
30 of the three preceding years shall be furnished by risk classification.
- 31          (10) An executed agreement by each member showing the member's  
32 obligation to pay to the proposed group not less than twenty-five percent  
33 (25%) of the member's estimated annual premium not later than the first  
34 day of coverage afforded by the proposed group.
- 35          (11) Composition of the initial board.
- 36          (12) An indemnity agreement on a form prescribed by the Commissioner.
- 37          (13) Proof, satisfactory to the Commissioner, that either the applicant has  
38 within its own organization ample facilities and competent personnel to  
39 service its program for underwriting, claims, and industrial safety  
40 engineering, or that the applicant will contract for any of these services.  
41 If the applicant is to perform any servicing, biographical affidavits of  
42 those persons who will be responsible for or performing servicing shall  
43 be included with the information in subdivision (1) of this subsection.

1 If a group contracts with a service company or TPA to administer and  
2 adjust claims, the group shall provide proof of compliance with the  
3 other provisions of this Part.

4 (14) A letter stipulating the applicant's acceptance of membership in the  
5 North Carolina Self-Insurance Guaranty Association under Article 4 of  
6 Chapter 97 of the General Statutes.

7 (15) Any other specific information the Commissioner considers relevant to  
8 the organization of the proposed group.

9 (g) Every applicant shall execute and file with the Commissioner an agreement, as  
10 part of the application, in which the applicant agrees to deposit with the Commissioner  
11 cash or securities acceptable to the Commissioner.

12 **"§ 58-47-70. License; termination; revocation; restrictions.**

13 (a) If the Commissioner denies a license, the Commissioner shall inform the  
14 applicant of the reasons for the denial. The Commissioner may issue a license to an  
15 applicant that remedies the reasons for a denial within 60 days after the Commissioner's  
16 notice. The Commissioner may grant additional time to an applicant to remedy any  
17 deficiencies in its application. A request for an extension of time shall be made in  
18 writing by the applicant within 30 days after the Commissioner's notice. If the applicant  
19 fails to remedy the reasons for the denial, the application shall be withdrawn or denied.

20 (b) A group shall not terminate its license or cease the writing of renewal business  
21 without obtaining prior written approval from the Commissioner. The Commissioner  
22 shall not grant the request of any group to terminate its license unless the group has  
23 closed or reinsured all of its incurred workers' compensation obligations and has settled  
24 all of its other legal obligations, including known and unknown claims and associated  
25 expenses.

26 (c) No group shall transfer its workers' compensation obligations under an  
27 assumption reinsurance agreement without complying with Part 2 of Article 10 of this  
28 Chapter.

29 (d) Every group is subject to Article 19 of this Chapter. No group shall merge  
30 with another group unless both groups are engaged in the same or a similar type of  
31 business.

32 **"§ 58-47-75. Reporting and records.**

33 (a) As used in this section:

34 (1) 'Audited financial report' has the same meaning as in the NAIC Model  
35 Rule Requiring Annual Audited Financial Reports, as specified in G.S.  
36 58-2-205.

37 (2) 'Duplicate record' means a counterpart produced by the same impression  
38 as the original record, or from the same matrix, or by mechanical or  
39 electronic rerecording or by chemical reproduction, or by equivalent  
40 techniques, such as imaging or image processing, that accurately  
41 reproduce the original record.

42 (3) 'Original record' means the writing or recording itself or any counterpart  
43 intended to have the same effect by a person executing or issuing it, in

1           the normal and ordinary course of business, or data stored in a computer  
2           or similar device, the printout or other output readable by sight, shown  
3           to reflect the data accurately. An 'original' of a photograph includes the  
4           negative or any print from the negative.

5       (b) Each group shall file with the Commissioner the following:

6           (1) A statement in accordance with G.S. 58-2-165.

7           (2) An audited financial report.

8           (3) Annual payroll information within 90 days after the close of its fiscal  
9           year. The report shall summarize the payroll by annual amount paid and  
10           by classifications using the rules, classifications, and rates set forth in  
11           the most recently approved Workers' Compensation and Employers'  
12           Liability Insurance Manual governing audits of payrolls and  
13           adjustments of premiums. Each group shall maintain true and accurate  
14           payroll records. The payroll records shall be maintained to allow for  
15           verification of the completeness and accuracy of the annual payroll  
16           report.

17       (c) Each group shall make its financial statement and audited financial report  
18       available to its members upon request.

19       (d) All records shall be maintained by the group for the years during which an  
20       examination under G.S. 58-2-131 has not yet been completed.

21       (e) All records that are required to be maintained by this section shall be either  
22       original or duplicate records.

23       (f) If only duplicate records are maintained, the following requirements apply:

24           (1) The data shall be accessible to the Commissioner in legible form, and  
25           legible, reproduced copies shall be available.

26           (2) Before the destruction of any original records, the group in possession  
27           of the original records shall:

28           a. Verify that the records stored consist of all information contained  
29           in the original records, and that the original records can be  
30           reconstructed therefrom in a form acceptable to the  
31           Commissioner; and

32           b. Implement disaster preparedness or disaster recovery procedures  
33           that include provisions for the maintenance of duplicate records  
34           at an off-site location.

35           (3) Adequate controls shall be established with respect to the transfer and  
36           maintenance of data.

37       (g) Each group shall maintain its records under G.S. 58-7-50, G.S. 58-7-55, and  
38       the Act.

39       (h) All books of original entry and corporate records shall be retained by the group  
40       or its successor for a period of 15 years after the group ceases to exist.

41       **"§ 58-47-80. Assets and invested assets.**

42       Funds shall be held and invested by the board under G.S. 58-7-160, 58-7-162, 58-7-  
43       163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, 58-7-177, 58-7-178,

1 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-  
2 195, 58-7-197, and 58-7-200.

3 **"§ 58-47-85. Surplus requirements.**

4 (a) Every group shall maintain minimum surplus under one of the options in  
5 subdivision (1), (2), or (3) of this subsection:

6 (1) Maintain minimum surplus in accordance with Article 12 of this  
7 Chapter. A group organized and authorized before the effective date of  
8 this section shall comply with this section under the following schedule:

9 a. Forty percent (40%) of the surplus, in accordance with Article  
10 12, by January 1, 1999.

11 b. Fifty-five percent (55%) of the surplus, in accordance with  
12 Article 12, by January 1, 2000.

13 c. Seventy percent (70%) of the surplus, in accordance with Article  
14 12, by January 1, 2001.

15 d. Eighty-five percent (85%) of the surplus, in accordance with  
16 Article 12, by January 1, 2002.

17 e. One hundred percent (100%) of the surplus, in accordance with  
18 Article 12, by January 1, 2003.

19 The Commissioner shall not approve any dividend request that results in  
20 a surplus that is less than one hundred percent (100%) of the minimum  
21 surplus required by Article 12 of this Chapter.

22 (2) Maintain minimum surplus at an amount equal to ten percent (10%) of  
23 the group's total undiscounted outstanding claim liability, according to  
24 the group's annual statement filing, or such other amount as the  
25 Commissioner prescribes based on, but not limited to, the financial  
26 condition of the group and the risk retained by the group. In addition,  
27 the group shall maintain:

28 a. Specific excess reinsurance that provides the coverage limits in  
29 G.S. 58-47-95(a). The group shall retain no specific risk greater  
30 than five percent (5%) of the group's total annual earned  
31 premium according to the group's annual statement filing.

32 b. Aggregate excess insurance with a coverage limit being the  
33 greater of two million dollars (\$2,000,000) or twenty percent  
34 (20%) of the group's annual earned premium, according to the  
35 group's annual statement filing. The aggregate excess attachment  
36 point shall be one hundred ten percent (110%) of the annual  
37 earned premium, according to the group's annual statement filing.  
38 The required attachment point shall be reduced by each point, or  
39 fraction of a point, that a group's expense ratio exceeds thirty  
40 percent (30%). Conversely, the required attachment point may  
41 be increased by each point, or fraction of a point, that a group's  
42 expense ratio is less than thirty percent (30%), but in no event

1           shall the attachment point be greater than one hundred fifteen  
2           percent (115%) of the annual earned premium.

3           The Commissioner may require different levels of per occurrence and  
4           aggregate excess loss coverage, including full waiver of these  
5           requirements, consistent with the market availability, the group's claims  
6           experience, and the group's financial condition.

7           (3) Maintain minimum surplus at an amount equal to three hundred  
8           thousand dollars (\$300,000). The group shall immediately assess its  
9           members if, at any time, the group's surplus is less than the minimum  
10           surplus amount. In addition, the group shall maintain:

11           a. Specific excess reinsurance that provides coverage limits  
12           pursuant to G.S. 58-47-95(a). The group shall retain no specific  
13           risk greater than five percent (5%) of the group's total annual  
14           earned premium according to the group's annual statement filing.

15           b. Aggregate excess insurance with a coverage limit being the  
16           greater of two million dollars (\$2,000,000) or twenty percent  
17           (20%) of the group's annual earned premium, according to the  
18           group's annual statement filing. The aggregate excess attachment  
19           point shall be one hundred ten percent (110%) of the annual  
20           earned premium, according to the group's annual statement filing.  
21           The required attachment point shall be reduced by each point, or  
22           fraction of a point, that a group's expense ratio exceeds thirty  
23           percent (30%). Conversely, the required attachment point may  
24           be increased by each point, or fraction of a point, that a group's  
25           expense ratio is less than thirty percent (30%), but in no event  
26           shall the attachment point be greater than one hundred fifteen  
27           percent (115%) of the annual earned premium.

28 The Commissioner may require different levels of per occurrence and aggregate excess  
29 loss coverage, including full waiver of these requirements, consistent with market  
30 availability and the group's claims experience and financial condition.

31           (b) Each group shall adopt a policy whereby every member:

32           (1) Pays a deposit to the group of twenty-five percent (25%) of the  
33           member's estimated annual earned premium, or another amount that the  
34           Commissioner prescribes based on, but not limited to, the financial  
35           condition of the group and the risk retained by the group; or

36           (2) Once every year files with the group the member's most recent year-end  
37           balance sheet, compiled by an independent certified public accountant.  
38           The balance sheet shall demonstrate that the member's financial position  
39           does not show a deficit equity and is appropriate for membership in the  
40           group. At the request of the Commissioner, the group shall make these  
41           filings available for review. These filings shall be kept confidential;  
42           provided that the Commissioner may use that information in any  
43           judicial or administrative proceeding.

**"§ 58-47-90. Deposits.**

(a) Each group shall deposit with the Commissioner an amount equal to ten percent (10%) of the group's total annual earned premium, according to the group's annual statement filing, but not less than six hundred thousand dollars (\$600,000), or another amount that the Commissioner prescribes based on, but not limited to, the financial condition of the group and the risk retained by the group.

(b) G.S. 58-5-1, 58-5-20, 58-5-25, 58-5-30, 58-5-35, 58-5-40, 58-5-63, 58-5-75, 58-5-80, 58-5-90(a) and (c), 58-5-95, 58-5-110, 58-5-115, and 58-5-120 apply to groups.

(c) A group organized and authorized before January 1, 1998, has until January 1, 2001, to comply with subsection (b) of this section. However, a dividend request shall not be approved by the Commissioner until the group has replaced its surety bonds with the deposit required by subsection (b) of this section.

(d) No judgment creditor, other than a claimant entitled to benefits under the Act, may levy upon any deposits made under this section.

(e) If a group ceases to self-insure, dissolves, or transfers its workers' compensation obligations under an assumption reinsurance agreement, the Commissioner shall not release any deposits until the group has fully discharged all of its obligations under the Act.

**"§ 58-47-95. Excess insurance and reinsurance.**

(a) Each group, on or before its effective date of operation and on a continuing basis thereafter, shall maintain per occurrence and aggregate excess loss coverage through an insurance policy or reinsurance contract. Groups shall maintain limits and retentions commensurate with their exposures. A group's retention shall be the lowest retention suitable for groups with similar exposures and annual premium. The Commissioner may require different levels of per occurrence and aggregate excess loss coverage, including full waiver of these requirements, commensurate with the group's claims experience and financial condition.

(b) Any excess insurance policy or reinsurance contract under this section shall be issued by a licensed insurance company, an approved surplus lines insurance company, or an accredited reinsurer, and shall:

(1) Provide for at least 30 days' written notice of cancellation by certified mail, return receipt requested, to the group and to the Commissioner.

(2) Be renewable automatically at its expiration, except upon 30 days' written notice of nonrenewal by certified mail, return receipt requested, to the group and to the Commissioner.

(c) Every group shall provide to the Commissioner evidence of its excess insurance or reinsurance coverage, and any amendments, within 30 days after their effective dates. Every group shall, at the request of the Commissioner, furnish copies of any excess insurance policies or reinsurance contracts and any amendments.

**"§ 58-47-100. Examinations.**

G.S. 58-2-131, 58-2-132, and 58-2-133 apply to groups.

**"§ 58-47-105. Dividends and other distributions.**

1        Group dividends and other distributions shall be made in accordance with G.S. 58-7-  
2 130, 58-8-25(b), and 58-19-30. A group shall be in compliance with this Part before  
3 payment of dividends or other distributions to its members. No group shall pay dividends  
4 or other distributions to its members until two years after the group's licensing date.

5        Payment of dividends to the members of any group shall not be contingent upon the  
6 maintenance or continuance of membership in the group.

7 **"§ 58-47-110. Premium rates.**

8        (a) As used in this section:

9            (1) 'Bureau' means the North Carolina Rate Bureau in Article 36 of this  
10 Chapter.

11            (2) 'Expenses' means that portion of a premium rate attributable to  
12 acquisition, field supervision, collection expenses, and general  
13 expenses, as determined by the group.

14            (3) 'Multiplier' means a group's determination of the expenses, other than  
15 loss expense and loss adjustment expense, associated with writing  
16 workers' compensation and employers' liability insurance, which shall  
17 be expressed as a single nonintegral number to be applied equally and  
18 uniformly to the prospective loss costs approved by the Commissioner  
19 in making rates for each classification of risks utilized by that group.

20            (4) 'Prospective loss costs' means that portion of a rate that does not include  
21 provisions for expenses (other than loss adjustment expenses) or profit  
22 and that is based on historical aggregate losses and loss adjustment  
23 expenses adjusted through development to their ultimate value and  
24 forecasted through trending to a future point in time.

25            (5) 'Supplementary rating information' means any manual or plan of rates,  
26 classification, rating schedule, minimum premium, policy fee, rating  
27 rule, rate-related underwriting rule, experience rating plan, statistical  
28 plan, and any other similar information needed to determine the  
29 applicable rate in effect or to be in effect.

30        (b) Rates and the effective date shall be submitted by the group to the  
31 Commissioner for prior approval in the form of a rate filing. The rate filing:

32            (1) Shall be on a form prescribed by the Commissioner and shall be  
33 supported by competent analysis, prepared by a qualified actuary,  
34 demonstrating that the resulting rates meet the standards of not being  
35 excessive, inadequate, or unfairly discriminatory;

36            (2) Shall have the final rates and the effective date determined  
37 independently and individually by the group;

38            (3) Shall have manual rates that are the combination of the prospective loss  
39 costs and the multiplier;

40            (4) Shall file any other information that the group considers relevant and  
41 shall provide any other information requested by the Commissioner;

42            (5) Shall be considered complete when the required information and all  
43 additional information requested by the Commissioner is received by

1           the Commissioner. When a filing is not accompanied by the  
2           information required under this section, the Commissioner shall inform  
3           the group within 30 days after the initial filing that the filing is  
4           incomplete and shall note the deficiencies. If information required by a  
5           rate filing or requested by the Commissioner is not maintained or cannot  
6           be provided, the group shall certify that to the Commissioner;

7           (6) May include deviations to the prospective loss cost based on the group's  
8           anticipated experience. Sufficient documentation supporting the  
9           deviations and the impact of the deviation shall be included in the rate  
10           filing. Expense loads, whether variable, fixed, or a combination of  
11           variable and fixed, may vary by individual classification or grouping.  
12           Each filing that varies the expense load by class shall specify the  
13           expense factor applicable to each class and shall include information  
14           supporting the justification for the variation;

15           (7) Shall include any proposed use of a premium-sized discount program, a  
16           schedule rating program, a small deductible credit program or an  
17           expense constant or minimum premium, and the use shall be supported  
18           in the rate filing; and

19           (8) Shall be deemed approved, unless disapproved by the Commissioner in  
20           writing, within 60 days after the rate filing is made in its entirety. A  
21           group is not required to refile rates previously approved until two years  
22           after the effective date of this Part.

23           (c) At the time of the rate filing, a group may request to have its approved  
24           multiplier remain in effect and continue to use either the prospective loss cost filing in  
25           effect at the time of the rate filing or the prospective loss cost filing in effect at the time  
26           of the filing, along with all other subsequent prospective loss cost filings, as approved.

27           (d) To the extent that a group's manual rates are determined solely by applying its  
28           multiplier, as presented and approved in the rate filing, to the prospective loss costs  
29           contained in the Bureau's reference filing and printed in the Bureau's rating manual, the  
30           group need not develop or file its final rate pages with the Commissioner. If a group  
31           chooses to print and distribute final rate pages for its own use, based solely upon the  
32           application of its filed prospective loss costs, the group need not file those pages with the  
33           Commissioner. If the Bureau does not print the prospective loss costs in its manual, the  
34           group shall submit its rates to the Commissioner.

35           (e) If a new filing of rules, relativities, and supplementary rating information is  
36           filed by the Bureau and approved:

37           (1) The group shall not file anything with the Commissioner if the group  
38           decides to use the revisions as filed, with the effective date as filed  
39           together with the prospective loss multiplier on file with the  
40           Commissioner.

41           (2) The group shall notify the Commissioner of its effective date before the  
42           Bureau filing's effective date if the group decides to use the revisions as  
43           filed but with a different effective date.

1           (3) The group shall notify the Commissioner before the Bureau filing's  
2 effective date if the group decides not to use the revision or revisions.

3           (4) The group shall file the modification with the Commissioner, for  
4 approval, specifying the basis for the modification and the group's  
5 proposed effective date if different from the Bureau filing's effective  
6 date, if the group decides to use the revision with deviations.

7           (f) Every group shall adhere to the uniform classification plan and experience  
8 rating plan filed by the Bureau.

9           (g) Groups shall maintain data in accordance with the uniform statistical plan  
10 approved by the Commissioner.

11           (h) Each group shall submit annually a rate certification, signed by a qualified  
12 actuary, which states that the group's prospective rates are not excessive, inadequate, or  
13 unfairly discriminatory. The certification is to accompany the group's rate filing. If a  
14 rate filing is not required, the actuarial rate certification is to be submitted by the end of  
15 the calendar year.

16 **"§ 58-47-115. Premium payment requirements.**

17           Groups shall collect members' premiums for each policy period in a manner so that at  
18 no time the sum of a member's premium payments is less than the total estimated earned  
19 premium for that member.

20 **"§ 58-47-120. Board; composition, powers, duties, and prohibitions.**

21           (a) Each group shall be governed by a board of trustees or other governing body  
22 comprising no fewer than three persons, elected by the members for stated terms of  
23 office, and subject to the Commissioner's approval. All board members shall be residents  
24 of this State or members of the group. At least two-thirds of the board shall comprise  
25 employees, officers, or directors of members; provided that the Commissioner may waive  
26 this requirement for good cause. The group's TPA, service company, or any owner,  
27 officer, employee, or agent of, or any other person affiliated with, the TPA or service  
28 company shall not serve as a board member. The board shall ensure that all claims are  
29 paid promptly and take all necessary precautions to safeguard the assets of the group.

30           (b) The board shall be responsible for the following:

31           (1) Maintaining minutes of its meetings and making the minutes available  
32 to the Commissioner.

33           (2) Providing for the execution of its policies, including providing for day-  
34 to-day management of the group and delineating in the minutes of its  
35 meetings the areas of authority it delegates.

36           (3) Designating a chair to facilitate communication between the group and  
37 the Commissioner.

38           (4) Adopting a policy of reimbursement from the assets of the group for  
39 out-of-pocket expenses incurred as trustees, if so desired.

40           (c) The board shall not:

41           (1) Be compensated by the group, TPA, or service company except for out-  
42 of-pocket expenses incurred as trustees.

- 1           (2)   Extend credit to members for payment of a premium, except under  
2           payment requirements set forth in this Part.
- 3           (3)   Borrow any money from the group or in the name of the group, except  
4           in the ordinary course of business, without first informing the  
5           Commissioner of the nature and purpose of the loan and obtaining the  
6           Commissioner's approval.
- 7           (d)   The board shall adopt bylaws to govern the operation of the group. The  
8   bylaws shall comply with the provisions of this section and shall include:
- 9           (1)   The method for selecting the trustees, including terms of office.  
10          (2)   The method for amending the bylaws and the plans of operation and  
11          assessment.
- 12          (3)   The method for establishing and maintaining the group.  
13          (4)   The procedures and requirements for dissolving the group.
- 14          (e)   Each group shall file a copy of its bylaws with the Commissioner. Any  
15   changes to the bylaws shall be filed with the Commissioner no sooner than 30 days  
16   before their effective dates. The Commissioner may order the group to rescind or revoke  
17   any bylaw if it violates this section or any other applicable law or administrative rule.
- 18          (f)   The board shall adopt and administer a plan of operation to assure the fair,  
19   reasonable, and equitable administration of the group. All members shall comply with  
20   the plan. The plan shall comply with this section and include:
- 21          (1)   Procedures for administering the assets of the group.  
22          (2)   A plan of assessment.  
23          (3)   Loss control services to be provided to the members.  
24          (4)   Rules for payment and collection of premium.  
25          (5)   Basis for dividends.  
26          (6)   Reimbursement of trustees.  
27          (7)   Intervals for meetings of the board, which shall be held at least  
28          semiannually.
- 29          (8)   Procedures for the maintenance of records of all transactions of the  
30          group.
- 31          (9)   Procedures for the selection of the trustees.  
32          (10)   Additional provisions necessary or proper for the execution of the  
33          powers and duties of the group.
- 34          (11)   Qualifications for group membership, including underwriting guidelines  
35          and procedures to identify members that are in hazardous financial  
36          conditions.
- 37          (g)   The plan and any amendments become effective upon approval in writing by  
38   the Commissioner.
- 39          (h)   Each year the board shall review:
- 40          (1)   The performance evaluation of the TPA or service company, if  
41          applicable.
- 42          (2)   Loss control services.  
43          (3)   Investment policies.

- 1           (4)    Delinquent debts.
- 2           (5)    Membership cancellation procedures.
- 3           (6)    Admission of new members.
- 4           (7)    Claims administration and reporting.
- 5           (8)    Payroll audits and findings.
- 6           (9)    Excess insurance or reinsurance coverage.

7 The board's findings from its review shall be documented in the board's minutes.

- 8           (i)    G.S. 58-7-140 applies to trustees.

9 **"§ 58-47-125. Admission and termination of group members.**

10           (a)    Prospective group members shall submit applications for membership to the  
11 board. The board, a designated employee of the group, or TPA shall approve an  
12 application for membership under the bylaws of the group. Members shall have bona  
13 fide offices in this State and members' employees shall be primarily engaged in business  
14 activities within this State. Members shall receive certificates of coverage from the board  
15 on a form acceptable to the Commissioner.

16           (b)    The group shall give the Commissioner properly executed applications and  
17 indemnity agreements for all members, on forms prescribed by the Commissioner. If the  
18 applications and indemnity agreements are not executed properly and maintained, the  
19 Commissioner may order the group to cease writing all new business until all of the  
20 agreements are executed properly and obtained.

21           (c)    Members may elect to terminate their participation in a group and may be  
22 canceled by the group under G.S. 97-99 and the bylaws of the group.

23 **"§ 58-47-130. Disclosure.**

24           Every group through its board, TPA, service company, agents, or other  
25 representatives shall require, before accepting an application, each applicant for  
26 membership to acknowledge in writing that the applicant has received the following:

- 27           (1)    A document disclosing that the members are jointly and severally liable  
28               for the obligations of the group.
- 29           (2)    A copy of the group's plan of assessment.
- 30           (3)    The amount of specific and aggregate stop loss or excess insurance or  
31               reinsurance carried by the group, the amount and kind of risk retained  
32               by the group, and the name and rating of the insurer providing stop loss,  
33               excess insurance, or reinsurance.

34 **"§ 58-47-135. Assessment plan and indemnity agreement.**

35           (a)    Each group shall establish an assessment plan that provides for a reasonable  
36 and equitable mechanism for assessing its members. The plan and any amendments shall  
37 be approved by the Commissioner. The plan shall include descriptions of the  
38 circumstances that initiate an assessment, basis, and allocation to members of the amount  
39 being assessed, and collection of the assessment.

40           (b)    The board shall notify the Commissioner of an assessment no fewer than 60  
41 days before an assessment.

42           (c)    The Commissioner shall impose an assessment on members if the board or  
43 third-party administrator fails to take action to correct a hazardous financial condition.

1 (d) Every group shall file an indemnity agreement on a form prescribed by the  
2 Commissioner, which jointly and severally binds the members of the group to comply  
3 with the provisions of the act and pay obligations imposed by the Act.

4 **"§ 58-47-140. Other provisions of this Chapter.**

5 G.S. 58-1-10, 58-2-45, 58-2-50, 58-2-70, 58-2-100, 58-2-105, 58-2-155, 58-2-161,  
6 58-2-180, 58-2-185, 58-2-190, 58-2-200, 58-3-71, 58-3-81, 58-3-100, 58-3-120, 58-3-  
7 125, 58-6-25, 58-7-21, 58-7-26, 58-7-30, 58-7-33, and Articles 13, 19, 30, 33, 34, and 63  
8 of this Chapter apply to groups.

9 "Part 2. Third-Party Administrators and Service Companies for Individual Self-  
10 Insurers.

11 **"§ 58-47-150. Definitions.**

12 As used in this Part:

13 (1) 'Self-insurer' means a single employer who has been issued a license by  
14 the Commissioner under Article 5 of Chapter 97 of the General Statutes  
15 to retain its liability under the Workers' Compensation Act and to pay  
16 directly the compensation in the amount and manner and when due as  
17 provided for in the Act.

18 (2) 'Service company' means an entity that has contracted with a self-insurer  
19 for the purpose of providing any services related to claims adjustment,  
20 loss control, or both.

21 (3) 'Third-party administrator' or 'TPA' means a person engaged by a self-  
22 insurer to execute the policies established by the self-insurer and to  
23 provide day-to-day management of the self-insurer. 'Third-Party  
24 Administrator' and 'TPA' does not mean:

25 a. A self-insurer acting on behalf of its employees or the employees  
26 of one or more of its affiliates.

27 b. An insurer that is licensed under this Chapter or that is acting as  
28 an insurer with respect to a policy lawfully issued and delivered  
29 by it and under the laws of a state in which the insurer is licensed  
30 to write insurance.

31 c. An agent or broker who is licensed by the Commissioner under  
32 Article 33 of this Chapter whose activities are limited exclusively  
33 to the sale of insurance.

34 d. An adjuster licensed by the Commissioner under Article 33 of  
35 this Chapter whose activities are limited to adjustment of claims.

36 e. An employee of a board.

37 **"§ 58-47-155. TPAs and service companies; authority; qualifications.**

38 (a) No person shall act as, offer to act as, or hold himself or herself out as a TPA  
39 or a service company with respect to risks located in this State for a self-insurer unless  
40 that person complies with this Article.

41 (b) A TPA or service company shall post with the self-insurer a fidelity bond or  
42 other appropriate coverage, issued by an authorized insurer, in a form acceptable to the

1 Commissioner, in an amount commensurate with the risk, and with the trustees of the  
2 self-insurer as obligee.

3 (c) A TPA or service company shall maintain errors and omissions coverage or  
4 other appropriate liability insurance in a form acceptable to the Commissioner and in an  
5 amount commensurate with the risk. The trustees of the self-insurer shall be obligee of  
6 the coverage or insurance.

7 (d) If the Commissioner determines that a TPA or service company or any other  
8 person materially has not complied with this section or with any rule adopted or order  
9 issued under this Article, after notice and opportunity to be heard, the Commissioner may  
10 order for each separate violation a civil penalty under G.S. 58-2-70(d).

11 (e) If the Commissioner finds that because of a material noncompliance that a self-  
12 insurer has suffered any loss or damage, the Commissioner may maintain a civil action  
13 brought by or on behalf of the self-insurer and its policyholders and creditors for recovery  
14 of compensatory damages for the benefit of the self-insurer and its policyholders and  
15 creditors or for other appropriate relief.

16 (f) Nothing in this Article affects the Commissioner's right to impose any other  
17 penalties provided for in this Chapter or limits or restricts the rights of policyholders,  
18 claimants, and creditors.

19 (g) If an order of rehabilitation or liquidation of the self-insurer has been entered  
20 under Article 30 of this Chapter, and the receiver appointed under that order determines  
21 that the TPA or service company or any other person has not materially complied with  
22 this section or any rule adopted or order issued under this section, and the self-insurer  
23 suffered any loss or damage from the noncompliance, the receiver may maintain a civil  
24 action for recovery of damages or other appropriate sanctions for the benefit of the self-  
25 insurer.

26 **§ 58-47-160. Written agreement; composition; restrictions.**

27 (a) No person may act as a TPA or service company without a written agreement  
28 between the TPA or service company and the self-insurer. The written agreement shall  
29 be retained by the self-insurer and the TPA or service company for the duration of the  
30 agreement and for five years thereafter. The agreement shall contain all provisions  
31 required by this Article, to the extent those requirements apply to the functions performed  
32 by the TPA or service company.

33 (b) Self-insurers shall file with the Commissioner the written agreement, and any  
34 amendments to the agreement, within 30 days after execution. Individual self-insurers  
35 shall furnish the Commissioner, upon request, the written agreement and any  
36 amendments to the agreement. The information required by this section, including any  
37 trade secrets, shall be kept confidential; provided that the Commissioner may use that  
38 information in any judicial or administrative proceeding instituted against the TPA.

39 (c) The written agreement shall set forth the duties and powers of the TPA or  
40 service company and the self-insurer. The Commissioner shall disapprove any such  
41 written agreement that:

42 (1) Subjects the self-insurer to excessive charges for expenses or  
43 commission.

1           (2) Vests in the TPA or service company any control over the management  
2 of the affairs of the self-insurer to the exclusion of the trustees of the  
3 self-insurer.

4           (3) Is entered into with any TPA or service company if the person acting as  
5 the TPA or service company, or any of the officers or directors of the  
6 TPA or service company is of known bad character or has been  
7 affiliated directly or indirectly through ownership, control, management,  
8 reinsurance transactions, or other insurance or business relationships  
9 with any person known to have been involved in the improper  
10 manipulation of assets, accounts, or reinsurance.

11           (4) Is determined by the Commissioner to contain provisions that are not  
12 fair and reasonable to the self-insurer.

13           (d) The self-insurer, TPA, or service company may, with written notice, terminate  
14 the agreement as provided in the agreement. The self-insurer may suspend the  
15 underwriting authority of the TPA during the pendency of any dispute regarding the  
16 cause for termination of the agreement. The self-insurer shall fulfill any lawful  
17 obligations with respect to policies affected by the agreement, regardless of any dispute  
18 between the self-insurer and the TPA or service company.

19           (e) The contract may not be assigned in whole or part by the TPA or service  
20 company without prior approval by the trustees of the self-insurer and the Commissioner.

21 **"§ 58-47-165. Records.**

22           (a) Every TPA or service company shall maintain and make available to the self-  
23 insurer complete books and records of all transactions performed on behalf of the self-  
24 insurer. The books and records shall be maintained by the self-insurer, TPA, or service  
25 company in accordance with G.S. 58-47-180.

26           (b) The Commissioner shall have access to books and records maintained by a  
27 TPA or service company for the purposes of examination, audit, or inspection. The  
28 Commissioner shall keep confidential any trade secrets contained in those books and  
29 records, including the identity and addresses of self-insurers, except that the  
30 Commissioner may use the information in any judicial or administrative proceeding  
31 instituted against the TPA or service company.

32           (c) The Commissioner may use the TPA or service company as an intermediary in  
33 the Commissioner's dealings with the self-insurer if the Commissioner determines that  
34 this will result in a more rapid and accurate flow of information from the self-insurer and  
35 will aid in the self-insurer's compliance with this Article and the Act.

36           (d) The self-insurer shall own the records generated by the TPA or service  
37 company pertaining to the self-insurer's business.

38           (e) The self-insurer shall have access to and rights to duplicate all books and  
39 records related to its business.

40           (f) If the self-insurer and the TPA or service company cancel their agreement,  
41 notwithstanding the provisions of subsection (a) of this section, the TPA or service  
42 company, shall transfer all records to the new TPA, service company, or the self-insurer  
43 in a form acceptable to the Commissioner. The new TPA or service company shall

1 acknowledge, in writing, that it is responsible for retaining the records of the prior TPA,  
2 service company, or the self-insurer as required in subsection (a) of this section.

3 **"§ 58-47-170. Payments to TPA or service company.**

4 If a self-insurer uses the services of a TPA, the payment to the TPA of any premiums  
5 or charges for insurance by or on behalf of the insured party is considered payment to the  
6 self-insurer. The payment of return premiums or claim payments forwarded by the self-  
7 insurer to the TPA or service company is not considered payment to the insured party or  
8 claimant until the payments are received by the insured party or claimant. This section  
9 does not limit any right of the self-insurer against the TPA or service company resulting  
10 from the failure of the TPA or service company to make payments to the self-insurer,  
11 insured parties, or claimants.

12 **"§ 58-47-175. Approval of advertising.**

13 A TPA or service company may use only the advertising pertaining to or affecting the  
14 business underwritten by a self-insurer that has been approved in writing by the self-  
15 insurer before its use.

16 **"§ 58-47-180. Premium collection and payment of claims.**

17 (a) The TPA or service company, at a minimum, shall:

- 18 (1) Periodically render an accounting to the self-insurer detailing all  
19 transactions performed by the TPA or service company pertaining to the  
20 business underwritten, premium or other charges collected, and claims  
21 paid by the self-insurer, when applicable.  
22 (2) Deposit all receipts directly into an account maintained in the name of  
23 the self-insurer.  
24 (3) Pay claims on drafts or checks of and authorized by the self-insurer.  
25 (4) Not withdraw from the self-insurer's account except for authority  
26 limited to pay claims and refund premiums.  
27 (5) Remit return premium, directly from the self-insurer's account, to the  
28 person entitled to the return premium.

29 (b) Any check disbursement authority granted to the TPA or service company may  
30 be terminated upon the self-insurer's written notice to the TPA or service company or  
31 upon termination of the agreement. The self-insurer may suspend the check  
32 disbursement authority during the pendency of any dispute regarding the cause for  
33 termination.

34 **"§ 58-47-185. Notices; disclosure.**

35 (a) When the services of a TPA are used, the TPA shall provide a written notice  
36 approved by the self-insurer to covered members advising them of the identity of, and  
37 relationship among, the TPA, the member, and the self-insurer.

38 (b) When a TPA collects funds, the reason for collection of each item shall be  
39 identified to the member and each item shall be shown separately from any premium.  
40 Additional charges may not be made for services to the extent the services have been paid  
41 for by the self-insurer.

42 (c) The TPA shall disclose to the self-insurer all charges, fees, and commissions  
43 received from all services in connection with the provision of administrative services for

1 the self-insurer, including any fees or commissions paid by self-insurers for obtaining  
2 reinsurance.

3 (d) The TPA or service company shall disclose to the self-insurer the nature of  
4 other business in which it is involved.

5 **"§ 58-47-190. Compensation.**

6 A TPA or service company shall not enter into any agreement or understanding with a  
7 self-insurer that makes the amount of the TPA's or service company's commissions, fees,  
8 or charges contingent upon savings affected in the adjustment, settlement, and payment  
9 of losses covered by the self-insurer's obligations. This section does not prohibit a TPA  
10 or service company from receiving performance-based compensation for providing  
11 medical services through a physician-based network or auditing services and does not  
12 prevent the compensation of a TPA or service company from being based on premiums  
13 or charges collected or the number of claims paid or processed.

14 **"§ 58-47-195. Examinations.**

15 Third-party administrators and service companies may be examined under G.S. 58-2-  
16 131, 58-2-132, and 58-2-133.

17 **"§ 58-47-200. Unfair trade practices.**

18 Third-Party Administrators and service companies are subject to Article 63 of this  
19 Chapter.

20 **"§ 58-47-205. Other requirements.**

21 (a) A TPA or service company, or any owner, officer, employee, or agent of a  
22 TPA or service company, or any other person affiliated with or related to the TPA or  
23 service company shall not serve as a trustee of a self-insurer.

24 (b) Each TPA or service company shall make available for inspection by the  
25 Commissioner copies of all contracts with persons using the services of the TPA.

26 **"PART 3. THIRD-PARTY ADMINISTRATORS FOR GROUPS.**

27 **"§ 58-47-210. Definitions.**

28 As used in this Part:

- 29 (1) 'Board' means the board of trustees or other governing body of a group.  
30 (2) 'GAAP financial statement' means a financial statement as defined by  
31 generally accepted accounting principles.  
32 (3) 'Group' means a group of employers that is licensed under Part 1 of this  
33 Article.  
34 (4) 'Hazardous financial condition' means that, based on its present or  
35 reasonably anticipated financial condition, a self-insurer, although not  
36 yet financially impaired or insolvent, is unlikely to be able to meet  
37 obligations with respect to known claims and reasonably anticipated  
38 claims or to pay other obligations in the normal course of business.  
39 (5) 'Member' means an employer that participates in a group.  
40 (6) 'Service company' means an entity that has contracted with an employer  
41 or group for the purpose of providing any services related to claims  
42 adjustment, loss control, or both.

1           (7) 'Third-party administrator' or 'TPA' means a person engaged by a board  
2 to execute the policies established by the board and to provide day-to-  
3 day management of the group. 'Third-Party Administrator' and 'TPA'  
4 does not mean:

- 5           a. An employer acting on behalf of its employees or the employees  
6 of one or more of its affiliates.  
7           b. An insurer that is licensed under this Chapter or that is acting as  
8 an insurer with respect to a policy lawfully issued and delivered  
9 by it and under the laws of a state in which the insurer is licensed  
10 to write insurance.  
11           c. An agent or broker who is licensed by the Commissioner under  
12 Article 33 of this Chapter whose activities are limited exclusively  
13 to the sale of insurance.  
14           d. An adjuster licensed by the Commissioner under Article 33 of  
15 this Chapter whose activities are limited to adjustment of claims.  
16           e. An employee of a board.

17 **"§ 58-47-215. TPA authority; license, qualification for approval.**

18           (a) No person shall act as, offer to act as, or hold himself or herself out as a TPA  
19 with respect to risks located in this State for a group unless that person is licensed by the  
20 Commissioner under this Part.

21           (b) An applicant for a license shall file with the Commissioner the information  
22 required by subsection (c) of this section on a form prescribed by the Commissioner at  
23 least 90 days before the proposed licensing date. No application is complete until the  
24 Commissioner has received all required information.

25           (c) The following information shall be included in the license application:

- 26           (1) All organizational documents of the TPA, including articles of  
27 incorporation, articles of association, a partnership agreement, a trade  
28 name certificate, or a trust agreement, any other applicable documents,  
29 and all amendments to these documents;  
30           (2) The bylaws, rules, regulations, or similar documents regulating the  
31 internal affairs of the TPA;  
32           (3) The names, addresses, official positions, and professional qualifications  
33 of the individuals who are responsible for the conduct of affairs of the  
34 TPA, including (i) all members of the board of directors, executive  
35 committee, or other governing board or committee, (ii) the principal  
36 officers in the case of a corporation or the partners or members in the  
37 case of a partnership or association, (iii) all shareholders holding  
38 directly or indirectly ten percent (10%) or more of the voting securities  
39 of the TPA, and (iv) any other person who exercises control or influence  
40 over the affairs of the TPA;  
41           (4) The annual audited GAAP financial statements for the two most recent  
42 years that demonstrate the applicant is solvent and an ongoing concern

1 and any other information the Commissioner may require in order to  
2 review the current financial condition of the applicant;

3 (5) A general description of the business operations, including information  
4 on staffing levels and activities proposed in this State and nationwide.  
5 The description shall provide details setting forth the TPA's capability  
6 for providing a sufficient number of experienced and qualified  
7 personnel in the areas of claims processing, record keeping, and  
8 underwriting;

9 (6) The annual report of the manner and amount of all charges, fees, and  
10 direct and indirect compensation received from the group as specified in  
11 the service agreement;

12 (7) All written agreements or contracts with groups; and

13 (8) Any other pertinent information, including evidence of compliance with  
14 other provisions of this Article, as required by the Commissioner.

15 (d) The information required by subsection (c) of this section, including any trade  
16 secrets, shall be kept confidential; provided that the Commissioner may use that  
17 information in any judicial or administrative proceeding instituted against the TPA.

18 (e) TPA licenses shall be renewed annually and applications for renewals of  
19 licenses shall include or be accompanied by any changes in the information required by  
20 subsection (c) of this section.

21 (f) A TPA shall notify the Commissioner of any material change in its ownership,  
22 control, or other fact or circumstance affecting its qualification for a license in this State,  
23 30 business days before the change. Failure of the Commissioner to disapprove any  
24 material changes within 30 days after the changes have been filed with the Commissioner  
25 constitutes the Commissioner's approval of the filed changes.

26 (g) After initial licensing, a TPA shall file with the Commissioner all contracts  
27 with a group 60 days before the effective date of the contract.

28 **"§ 58-47-220. TPA license; termination; revocation; restrictions.**

29 (a) The Commissioner may refuse to issue a license if the Commissioner  
30 determines that any of the provisions of this section apply to the TPA, or to any  
31 individual responsible for the conduct of affairs of the TPA.

32 (b) The Commissioner shall suspend or revoke automatically the license of a TPA  
33 and a request for a hearing shall not stay the effect of the revocation, suspension, or  
34 nonrenewal if the Commissioner finds that any of the following apply to the TPA:

35 (1) The TPA is using methods or practices in the conduct of its business  
36 that render its further transaction of business in this State hazardous or  
37 injurious to insured persons or the public;

38 (2) The TPA has failed to pay any judgment rendered against it in this State  
39 within 60 days after the judgment has become final;

40 (3) The TPA has refused to be examined or to produce its accounts, records,  
41 and files for examination, or any of its officers have refused to give  
42 information with respect to its affairs or have refused to perform any

- 1            other legal obligation as to that examination, when required by the  
2            Commissioner;
- 3            (4)    The TPA has, without just cause, refused to pay proper claims or  
4            perform services arising under its contract, has caused covered members  
5            to accept less than the amount due them, or has caused covered  
6            members to employ attorneys or bring suit against the TPA to secure  
7            full payment or settlement of the claims;
- 8            (5)    The TPA is an affiliate of or under the same general management,  
9            interlocking directorate, or ownership as another TPA or group that  
10           unlawfully transacts business in this State;
- 11           (6)    The TPA, or any principal or affiliate of the TPA, has been convicted of  
12           or has entered a plea of guilty or nolo contendere to a felony without  
13           regard to whether judgment was withheld;
- 14           (7)    The TPA or an affiliate is under revocation, suspension, or nonrenewal  
15           in another state;
- 16           (8)    The TPA is in hazardous financial condition;
- 17           (9)    The TPA has filed for protection under the United States Bankruptcy  
18           Code or any state receivership law;
- 19           (10)   The financial condition or business practices of the TPA otherwise pose  
20           an imminent threat to the public health, safety, or welfare of the  
21           residents of this State; or
- 22           (11)   The TPA is found to be in violation of Article 63 of this Chapter.
- 23           (c)    The Commissioner may, after notice and opportunity for hearing, suspend or  
24           revoke the license of a TPA if the Commissioner finds that any of the following apply to  
25           the TPA:
- 26           (1)    The TPA has violated a rule or an order of the Commissioner or any  
27           provision of this Chapter or Chapter 97 of the General Statutes; or
- 28           (2)    The TPA at any time fails to meet any qualification for which issuance  
29           of the license could have been refused had the failure then existed and  
30           been known to the Commissioner at the time of the application.
- 31           (d)    If the Commissioner determines that a TPA or any other person has not  
32           materially complied with this Article or with any rule adopted or order issued under this  
33           Article, after notice and opportunity to be heard, the Commissioner may order:
- 34           (1)    For each separate violation, a civil penalty pursuant to G.S. 58-2-70(d);  
35           or
- 36           (2)    Revocation, suspension, or nonrenewal of the person's license.
- 37           (e)    If the Commissioner finds that because of a material noncompliance a group  
38           has suffered any loss or damage, the Commissioner may maintain a civil action brought  
39           by or on behalf of the group and its policyholders and creditors for recovery of  
40           compensatory damages for the benefit of the group and its policyholders and creditors or  
41           for other appropriate relief.

1 (f) Nothing in this Article affects the Commissioner's right to impose any other  
2 penalties provided for in this Chapter. Nothing in this Article limits or restricts the rights  
3 of policyholders, claimants, and creditors.

4 (g) If an order of rehabilitation or liquidation of the group has been entered under  
5 Article 30 of this Chapter, and the receiver appointed under that order determines that the  
6 TPA or any other person has not materially complied with this section, or any order or  
7 rule adopted thereunder, and the group suffered any loss or damage therefrom, the  
8 receiver may maintain a civil action for recovery of damages or other appropriate  
9 sanctions for the benefit of the group."

10 Section 4. Chapter 97 of the General Statutes is amended by adding a new  
11 Article to read:

12 **"ARTICLE 5.**  
13 **"INDIVIDUAL EMPLOYERS.**

14 **"§ 97-165. Definitions.**

15 As used in this Article:

- 16 (1) 'Act' means the Workers' Compensation Act established in Article 1 of  
17 this Chapter.
- 18 (2) 'Certified audit' means an audit on which a certified public accountant  
19 expresses his or her professional opinion that the accompanying  
20 statements fairly present the financial position of the self-insurer, in  
21 conformity with generally accepted accounting principles as considered  
22 necessary by the auditor under the circumstances.
- 23 (3) 'Certified public accountant' or 'CPA' means a CPA who is in good  
24 standing with the American Institute of Certified Public Accountants  
25 and in all states in which the CPA is licensed to practice. A CPA shall  
26 be recognized as independent as long as the CPA conforms to the  
27 standards of the profession, as contained in the Code of Professional  
28 Ethics of the American Institute of Certified Public Accountants and  
29 Rules and Regulations and Code of Ethics and Rules of Professional  
30 Conduct of the North Carolina State Board of Certified Public  
31 Accountant Examiners, or similar code. The Commissioner may hold a  
32 hearing to determine whether a CPA is independent and, considering the  
33 evidence presented, may rule that the CPA is not independent for  
34 purposes of expressing an opinion on the GAAP financial statement and  
35 require the individual to replace the CPA with another whose  
36 relationship with the individual is independent within the meaning of  
37 this definition.
- 38 (4) 'Commissioner' means the Commissioner of Insurance.
- 39 (5) 'Corporate surety' means an insurance company authorized by the  
40 Commissioner to write surety business in this State.
- 41 (6) 'GAAP financial statement' means a financial statement as defined by  
42 generally accepted accounting principles.

1           (7) 'Hazardous financial condition' means that, based on its present or  
2 reasonably anticipated financial condition, a self-insurer, although not  
3 yet financially impaired or insolvent, is unlikely to be able to meet  
4 obligations with respect to known claims and reasonably anticipated  
5 claims or to pay other obligations in the normal course of business.

6           (8) 'Management' means those persons who are authorized to direct or  
7 control the operations of an individual self-insurer.

8           (9) 'Qualified actuary' means a member in good standing of the Casualty  
9 Actuarial Society or a member in good standing of the American  
10 Academy of Actuaries, who has been approved as qualified for signing  
11 casualty loss reserve opinions by the Casualty Practice Council of the  
12 American Academy of Actuaries, and is in compliance with G.S. 58-2-  
13 171.

14          (10) 'Self-insurer' means a single employer who retains liability under the  
15 Act and is licensed under this Article.

16 **"§ 97-170. License applications; required information.**

17          (a) No employer shall self-insure its workers' compensation liabilities under the  
18 Act unless it is licensed by the Commissioner under this Article.

19          (b) An applicant for a license as a self-insurer shall file with the Commissioner the  
20 information required by subsection (d) of this section on a form prescribed by the  
21 Commissioner at least 90 days before the proposed licensing date. No application is  
22 complete until the Commissioner has received all required information.

23          (c) Only an applicant whose employee base is actuarially sufficient in numbers  
24 and provides an actuarially appropriate spreading of risk and whose total fixed assets  
25 amount to five hundred thousand dollars (\$500,000) or more may apply for a license. In  
26 judging the applicant's financial strength and liquidity relative to its ability to comply  
27 with the Act, the Commissioner shall consider the applicant's:

28           (1) Organizational structure and management;

29           (2) Financial strength;

30           (3) Source and reliability of financial information;

31           (4) Risks to be retained;

32           (5) Workers' compensation loss history;

33           (6) Number of employees;

34           (7) Claims administration;

35           (8) Excess insurance; and

36           (9) Access to excess insurance or reinsurance.

37          (d) The license application shall comprise the following information:

38           (1) Company name, organizational structure, location of principal office,  
39 contact person, organization date, type of operations within this State,  
40 management background, and addresses of all plants or offices in this  
41 State.

- 1           (2) Certified audited GAAP financial statements prepared by a CPA for the  
2 two most recent years. The financial statement formulation shall  
3 facilitate application of ratio and trend analysis.
- 4           (3) Evidence of the insurance required by G.S. 97-190.
- 5           (4) Demonstration, satisfactory to the Commissioner, that the employee  
6 base is actuarially sufficient in numbers and provides an actuarially  
7 appropriate spreading of risk.
- 8           (5) For applicants with 20 or more full-time employees, a certificate or  
9 other evidence of safety inspection, satisfactory to the Commissioner,  
10 that certifies that all safety requirements of the Department of Labor  
11 have been met.
- 12           (6) Summary of workers' compensation benefits paid for the last three  
13 calendar years, as well as the total liability for all open claims within 30  
14 days or some other period acceptable to the Commissioner not to exceed  
15 90 days, before the filing of the application.
- 16           (7) Summary, by risk classification, of annual payroll and number of  
17 employees within the State.
- 18           (8) Book value of fixed assets located within the State.
- 19           (9) Proof of compliance with the claims administration provisions of  
20 Article 47 of Chapter 58 of the General Statutes.
- 21           (10) A letter of assent, stipulating the applicant's acceptance of membership  
22 status in the North Carolina Self-Insurance Guaranty Association under  
23 Article 4 of this Chapter.
- 24           (e) Every applicant shall execute and file with the Commissioner an agreement, as  
25 part of the application, in which the applicant agrees to deposit with the Commissioner  
26 cash, acceptable securities, or a surety bond issued by a corporate surety that will  
27 guarantee the applicant's compliance with this Article and the Act pursuant to G.S. 97-  
28 185.

29 **"§ 97-175. License.**

30           (a) After the review of the application and all supporting materials, the  
31 Commissioner shall either grant or deny a license. If a license is denied, the  
32 Commissioner shall notify the applicant of the denial and inform the applicant of the  
33 deficiencies that constitute the basis for denial.

34           (b) If the deficiencies are resolved within 60 days after the Commissioner's notice  
35 of denial, the applicant shall be granted a license. The applicant may be granted  
36 additional time to remedy the deficiencies in its application. A request for an extension  
37 of time shall be made in writing by the applicant within 30 days after notice of denial by  
38 the Commissioner. If the requirements of this Article have not been met, the application  
39 shall be withdrawn or denied.

40 **"§ 97-180. Reporting and records.**

41           (a) Every self-insurer shall submit, within 120 days after the end of its fiscal year,  
42 a certified audited GAAP financial statement, prepared by a CPA, for that fiscal year.

1 The financial statement formulation shall facilitate the application of ratio and trend  
2 analysis.

3 (b) Every self-insurer shall submit within 120 days after the end of its fiscal year a  
4 certification from a qualified actuary setting forth the actuary's opinion relating to loss  
5 and loss adjustment expense reserves for workers' compensation obligations. The  
6 certification shall show liabilities, excess insurance carrier and other qualifying credits, if  
7 any, and net retained workers' compensation liabilities. The qualified actuary shall  
8 present an annual report to the self-insurer on the items within the scope of and  
9 supporting the certification, within 90 days after the close of the self-insurer's fiscal year.  
10 Upon request, the report shall be submitted to the Commissioner.

11 (c) Every self-insurer shall submit within 120 days after the end of its fiscal year a  
12 report in the form of a sworn statement prescribed by the Commissioner, setting forth the  
13 total workers' compensation benefits paid in the previous fiscal year, as well as the total  
14 outstanding workers' compensation liabilities for each fiscal year. The report shall also  
15 show liabilities, excess insurance carrier and other qualifying credits, if any, net retained  
16 liabilities, and the total liability recorded at the close of its fiscal year for the net retained  
17 liability.

18 (d) Every self-insurer shall submit within 120 days after the end of its fiscal year  
19 annual payroll information. The report shall summarize payroll, by annual amount paid,  
20 and the number of employees, by classification, using the rules, classifications, and rates  
21 in the most recently approved Workers' Compensation and Employers' Liability  
22 Insurance Manual governing the audits of payrolls and the adjustments of premiums.  
23 Every self-insurer shall maintain true and accurate payroll records. These payroll records  
24 shall be maintained to allow for verification of the completeness and accuracy of the  
25 annual payroll report.

26 (e) Every self-insurer shall report promptly to the Commissioner changes in the  
27 names and addresses of the businesses it self-insures or intends to self-insure, as well as  
28 significant changes in the financial condition, including bankruptcy filings, and changes  
29 in its business structure, including its divisions, subsidiaries, affiliates, and internal  
30 organization. Any change shall be reported in writing to the Commissioner within 10  
31 days after the effective date of the change.

32 **"§ 97-185. Deposits or surety bond.**

33 (a) Every self-insurer shall deposit with the Commissioner an amount equal to  
34 twenty-five percent (25%) of the self-insurer's total undiscounted outstanding claim  
35 liability per the most recent certification from a qualified actuary as required by G.S. 97-  
36 180(b), but not less than five hundred thousand dollars (\$500,000), or such other amount  
37 as the Commissioner prescribes based on, but not limited to, the financial condition of the  
38 self-insurer and the risk retained by the self-insurer.

39 (b) A self-insurer organized and authorized before the effective date of this section  
40 shall have 24 months from the effective date of this section to comply with this section.

41 (c) Deposits received, changes to existing deposits, or deposits exchanged after the  
42 effective date of this section, shall comprise one or more of the following:

43 (1) Interest-bearing bonds of the United States of America.

1           (2) Interest-bearing bonds of the State of North Carolina, or of its cities or  
2           counties.

3           (3) Certificates of deposit issued by any solvent bank domesticated in the  
4           State of North Carolina that have a maturity of one year or greater.

5           (4) Surety bonds in a form acceptable to the Commissioner and issued by a  
6           corporate surety.

7           (5) Any other investments that are approved by the Commissioner.

8           (d) All bonds or securities that are posted as a security deposit shall be valued  
9           annually at market value. If market value is less than face value, the Commissioner may  
10           require the self-insurer to post additional securities. In making this determination, the  
11           Commissioner shall consider the self-insurer's financial condition, the amount by which  
12           market value is less than face value, and the likelihood that the securities will be needed  
13           to provide benefits.

14           (e) Securities deposited under this section shall be assigned to the Commissioner,  
15           the Commissioner's successors, assigns, or trustees, on a form prescribed by the  
16           Commissioner in a manner that renders the securities negotiable by the Commissioner. If  
17           a self-insurer is deemed by the Commissioner to be in a hazardous financial condition,  
18           the Commissioner may sell or collect, or both, such amounts that will yield sufficient  
19           funds to meet the self-insurer's obligations under the Act. Interest accruing on any  
20           negotiable security deposited under this Article shall be collected and transmitted to the  
21           self-insurer if the self-insurer is not in a hazardous financial condition.

22           (f) No judgment creditor, other than a claimant entitled to benefits under the Act,  
23           may levy upon any deposits made under this section.

24           (g) Securities held by the Commissioner under this section may be exchanged or  
25           replaced by the self-insurer with other securities of like nature and amount as long as the  
26           self-insurer is not in a hazardous financial condition. No release shall be effectuated until  
27           replacement securities or bonds of an equal value have been substituted. Any surety  
28           bond may be exchanged or replaced with another surety bond that meets the requirements  
29           of this section if 60 days' advance written notice is given to the Commissioner. If a self-  
30           insurer ceases to self-insure or desires to replace securities with an acceptable surety  
31           bond or bonds, the self-insurer shall notify the Commissioner, and may recover all or a  
32           portion of the securities deposited with the Commissioner upon posting instead an  
33           acceptable special release bond issued by a corporate surety in an amount equal to the  
34           total value of the securities. The special release bond shall cover all existing liabilities  
35           under the Act plus an amount to cover future loss development and shall remain in force  
36           until all obligations under the Act have been discharged fully.

37           (h) If a self-insurer ceases to self-insure, no deposits shall be released by the  
38           Commissioner until the self-insurer has discharged fully all of the self-insurer's  
39           obligations under the Act.

40           (i) An endorsement to a surety bond shall be filed with the Commissioner within  
41           90 days after the effective date of the endorsement.

42           "**§ 97-190. Excess insurance.**"

1       (a) Every self-insurer, as a prerequisite for licensure under this Article, shall  
2 maintain per occurrence and aggregate excess loss coverage through an insurance policy.  
3 A self-insurer shall maintain limits and retentions commensurate with its risk. A self-  
4 insurer's retention shall be the lowest retention suitable for the self-insurer's exposures  
5 and level of annual premium. The Commissioner may require different levels, or waive  
6 the requirement, of per occurrence and aggregate excess loss coverage consistent with a  
7 self-insurer's claims experience and financial condition.

8       (b) An excess insurance policy required by this section shall be issued by either a  
9 licensed insurance company or an approved surplus lines insurance company and shall:

10           (1) Provide for at least 30 days' written notice of cancellation by registered  
11 or certified mail, return receipt requested, to the self-insurer and to the  
12 Commissioner.

13           (2) Be renewable automatically at its expiration, except upon 30 days'  
14 written notice of nonrenewal by certified mail, return receipt requested,  
15 to the self-insurer and to the Commissioner.

16       (c) Every self-insurer shall provide to the Commissioner evidence of coverage and  
17 any amendments within 30 days after their effective dates. Every self-insurer shall, at the  
18 request of the Commissioner, furnish copies of its excess insurance policies and  
19 amendments.

20 **"§ 97-195. Revocation of license.**

21       (a) The Commissioner summarily may revoke a license if there is satisfactory  
22 evidence for the revocation. In determining whether to revoke a license summarily, the  
23 Commissioner may consider any or all of the following:

24           (1) Determination of insolvency by a court of competent jurisdiction.

25           (2) Institution of bankruptcy proceedings.

26           (3) If the self-insurer is in a hazardous financial condition.

27       (b) The Commissioner, upon at least 45 days' notice, may revoke a license if there  
28 is satisfactory evidence for the revocation. In determining whether to revoke a license  
29 under this subsection, the Commissioner may consider any or all of the following:

30           (1) Whether the self-insurer has experienced a material loss or deteriorating  
31 operating trends, or reported a deficit financial position.

32           (2) Whether any affiliate or subsidiary is insolvent, threatened with  
33 insolvency, or delinquent in payment of its monetary or any other  
34 obligation.

35           (3) Whether the self-insurer has failed to pay premium taxes pursuant to  
36 Article 8B of Chapter 105 of the General Statutes.

37           (4) Whether the self-insurer has failed to pay an assessment under G.S. 97-  
38 100.

39           (5) Contingent liabilities, pledges, or guaranties that either individually or  
40 collectively involve a total amount that in the Commissioner's opinion  
41 may affect a self-insurer's solvency.

42           (6) Whether the management of a self-insurer, including officers, directors,  
43 or any other person who directly or indirectly controls the operation of

1           the self-insurer, fails to possess or demonstrate the competence, fitness,  
2           or reputation considered by the Commissioner to be necessary to self-  
3           insure for workers' compensation.

4           (7) Whether the management of a self-insurer has failed to respond to the  
5           Commissioner's inquiries about the condition of the self-insurer or has  
6           furnished false and misleading information in response to an inquiry by  
7           the Commissioner.

8           (8) Whether the management of a self-insurer has filed any false or  
9           misleading sworn financial statement, has released a false or misleading  
10           financial statement to a lending institution or to the general public, or  
11           has made a false or misleading entry or omitted an entry of material  
12           amount in the filed financial information.

13           (9) Whether the self-insurer has experienced or will experience in the  
14           foreseeable future, cash flow or liquidity problems.

15           (10) Whether the self-insurer has not complied with the other provisions of  
16           this Article or the Act.

17           (11) Whether the self-insurer has failed to make proper and timely payment  
18           of claims as required by this Article.

19           (c) Any self-insurer subject to license revocation under subsection (a) or (b) of this  
20           section may request an administrative hearing before the Commissioner to review that  
21           order. If a hearing is requested, a notice of hearing shall be served, and the notice shall  
22           state the time and place of hearing and the conduct, condition, or ground on which the  
23           Commissioner based the order. Unless mutually agreed upon between the Commissioner  
24           and the self-insurer, the hearing shall occur not less than 10 days nor more than 30 days  
25           after notice is served and shall be either in Wake County or in some other place  
26           designated by the Commissioner. The Commissioner shall hold all hearings under this  
27           section privately unless the self-insurer requests a public hearing, in which case the  
28           hearing shall be public. The request for a hearing shall not stay the effect of the order.

29           **"§ 97-200. Claim administration.**

30           (a) A self-insurer shall not utilize any claims adjuster unless the adjuster is  
31           licensed under G.S. 58-33-25.

32           (b) Every self-insurer shall comply with the provisions of Article 47 of Chapter 58  
33           of the General Statutes that are related to claims administration."

34           Section 5. G.S. 97-93 reads as rewritten:

35           **"§ 97-93. Employers required to carry insurance or prove financial ability to pay**  
36           **for benefits; employers required to post notice; self-insured employers**  
37           **regulated by Commissioner of Insurance.**

38           (a) Every employer subject to the provisions of this Article relative to the payment  
39 of compensation shall either:

40           (1) Insure and keep insured his liability under this Article in any authorized  
41 corporation, association, organization, or in any mutual insurance  
42 association formed by a group of employers so authorized; or

1           (2) ~~Furnish to the Commissioner of Insurance satisfactory proof of the~~  
2 ~~employer's financial ability, either alone or through membership in a~~  
3 ~~group of two or more employers who are members of the same trade or~~  
4 ~~professional association and who agree to pool their liabilities under this~~  
5 ~~Article, to directly pay the compensation in the amount and manner and~~  
6 ~~when due as provided for in this Article. The trade or professional~~  
7 ~~association must have been incorporated in North Carolina and in~~  
8 ~~existence at least five years prior to the date of application to the~~  
9 ~~Commissioner of Insurance to form a self-insurer's fund and shall~~  
10 ~~submit a written determination from the Internal Revenue Service that it~~  
11 ~~is exempt from taxation under 26 U.S.C. § 501(e).~~

12           ~~A group organized and approved under this subdivision prior to July~~  
13 ~~1, 1995, is not required to consist of employers of the same trade or~~  
14 ~~professional association, have existed for five years, have been~~  
15 ~~incorporated in North Carolina, or furnish the determination of tax-~~  
16 ~~exempt status under 26 U.S.C. § 501(e).~~

17           (3) Obtain a license from the Commissioner of Insurance under Article 5 of  
18 this Chapter or under Article 47 of Chapter 58 of the General Statutes.

19           (b) ~~In the case of subdivision (a)(2) of this section, the Commissioner of Insurance~~  
20 ~~may require the deposit of an acceptable security, indemnity, or bond to secure the~~  
21 ~~payment of compensation liabilities as they are incurred. Any individual employer or~~  
22 ~~group of employers who furnish proof of financial ability under subdivision (a)(2) of this~~  
23 ~~section shall be governed in all respects by this Article and by rules adopted by the~~  
24 ~~Commissioner of Insurance.~~

25           (c) ~~Payment of dividends to the members of any group of employers who agree to~~  
26 ~~pool their liabilities under subdivision (a)(2) of this section shall not be contingent upon~~  
27 ~~the maintenance or continuance of membership in such pools.~~

28           (d) ~~Groups of two or more employers who agree to pool their liabilities under~~  
29 ~~subdivision (a)(2) of this section are subject, in addition to the provisions cited in G.S.~~  
30 ~~58-2-145(a), to G.S. 58-2-165, G.S. 58-3-81, 58-6-25, 58-7-50, 58-7-55, 58-7-140, 58-7-~~  
31 ~~160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173,~~  
32 ~~58-7-177, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-~~  
33 ~~193, 58-7-195, 58-7-197, 58-7-200, and Articles 13, 19, 30, and 34 of Chapter 58 of the~~  
34 ~~General Statutes.~~

35           (e) ~~Every employer who is in compliance with the provisions of subsection (a) of~~  
36 ~~this section shall post in a conspicuous place in places of employment a notice stating~~  
37 ~~that employment by this employer is subject to the North Carolina Workers'~~  
38 ~~Compensation Act and stating whether the employer has a policy of insurance against~~  
39 ~~liability or qualifies as a self-insured employer. In the event the employer allows its~~  
40 ~~insurance to lapse or ceases to qualify as a self-insured employer, the employer shall,~~  
41 ~~within five working days of this occurrence, remove any notices indicating otherwise."~~

42           Section 6. G.S. 97-143 reads as rewritten:

43           "**§ 97-143. Use of deposits made by insolvent member self-insurers.**

1 After the Commissioner has notified the Association, under G.S. 97-136(a), that a  
2 member is insolvent, the Commissioner shall assign and deliver to the Association, and  
3 the Association is authorized to expend the deposit made by the insolvent member  
4 pursuant to ~~G.S. 97-93(b)~~, under G.S. 58-47-90 or G.S. 97-185, to the extent the deposit is  
5 needed by the Association to pay covered claims against ~~the premium taxes owed by the~~  
6 insolvent member as required by this Article, and to the extent the deposit is needed to  
7 pay expenses of the Association relating to covered claims against the insolvent member.  
8 The Association shall account to the Commissioner and the insolvent member or its  
9 successor for all deposits received from the Commissioner under this section."

10 Section 7. G.S. 58-2-145 and G.S. 97-96 are repealed.

11 Section 8. G.S. 97-130(6) reads as rewritten:

12 "(6) 'Member self-insurer' or 'member' means a self-insurer which is  
13 authorized by the Commissioner to self-insure pursuant to G.S. ~~97-93,~~  
14 ~~97-94 and 97-96.~~ 97-93 and G.S. 97-94."

15 Section 9. G.S. 97-131(b)(3) reads as rewritten:

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

24 Section 10. This act becomes effective January 1, 1998.