

Article 38.

Readable Insurance Policies.

§ 58-38-1. Title.

This Article is known and may be cited as the "Readable Insurance Policies Act." (1979, c. 755, s. 1.)

§ 58-38-5. Purpose.

The purpose of this Article is to provide that insurance policies and contracts be readable by a person of average intelligence, experience, and education. All insurers are required by this Article to use policy and contract forms and, where applicable, benefit booklets that are written in simple and commonly used language, that are logically and clearly arranged, and that are printed in a legible format. (1979, c. 755, s. 1.)

§ 58-38-10. Scope of application.

(a) Except as provided in subsection (b) of this section, the provisions of this Article apply to the policies and contracts of direct insurance that are described in G.S. 58-38-35(a).

(b) Nothing in this Article applies to:

- (1) Any policy that is a security subject to federal jurisdiction;
- (2) Any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit life insurance policy, nor any group policy delivered or issued for delivery outside of this State; however, this does not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this State;
- (3) Any group annuity contract that serves as a funding vehicle for pension, profit-sharing, or deferred compensation plans;
- (4) Any form used in connection with, as a conversion from, as an addition to, or in exchange pursuant to a contractual provision for, a policy delivered or issued for delivery on a form approved or permitted to be issued prior to the dates such forms must be approved under this Article;
- (5) The renewal of a policy delivered or issued for delivery prior to the date such policy must be approved under this Article; nor
- (6) Insurers who issue benefit booklets on group and nongroup bases for the policies described in G.S. 58-38-35(a)(2). In such cases, the provisions of this Article apply to the benefit booklets furnished to the persons insured.
- (7) Insurance on farm buildings (other than farm dwellings and their appurtenant structures); farm personal property; travel or camper trailers designed to be pulled by private passenger motor vehicles unless insured under policies covering nonfleet private passenger motor vehicles; nonfleet private passenger motor vehicles insured under a commercial motor vehicle insurance policy when combined with a commercial risk; residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium.

(c) No other provision of the General Statutes setting language simplification standards shall apply to any policy forms covered by this Article.

(d) Any non-English language policy delivered or issued for delivery in this State shall be deemed to be in compliance with this Article if the insurer certifies that such policy is translated from an English language policy which does comply with this Article. (1979, c. 755, s. 1; 1981, c. 888, s. 6; 1983, c. 393, s. 1.)

§ 58-38-15. Definitions.

As used in this Article, unless the context clearly indicates otherwise:

- (1) "Benefit booklet" means any written explanation of insurance coverages or benefits issued by an insurer and which is supplemental to and not a part of an insurance policy or contract.
- (2) Repealed by Session Laws 1991, c. 720, s. 6.
- (3) "Flesch scale analysis readability score" means a measurement of the ease of readability of an insurance policy or contract made pursuant to the procedures described in G.S. 58-38-35.
- (4) "Insurance policy or contract" or "policy" means an agreement as defined by G.S. 58-1-10.
- (5) "Insurer" means every person entering insurance policies or contracts as a principal, as described in G.S. 58-1-5(3).
- (6) "Person" means any individual, corporation, partnership, association, business trust, or voluntary organization. (1979, c. 755, s. 1; 1987, c. 864, s. 10; 1991, c. 720, s. 6.)

§ 58-38-20. Format requirements.

(a) All insurance policies and contracts covered by G.S. 58-38-35 must be printed in a typeface at least as large as 10 point modern type, one point leaded, be written in a logical and clear order and form, and contain the following items:

- (1) On the cover, first, or insert page of the policy a statement that the policy is a legal contract between the policy owner and the insurer and the statement, printed in larger or other contrasting type or color, "Read your policy carefully";
- (2) An index of the major provisions of the policy, which may include the following items:
 - a. The person or persons insured by the policy;
 - b. The applicable events, occurrences, conditions, losses, or damages covered by the policy;
 - c. The limitations or conditions on the coverage of the policy;
 - d. Definitional sections of the policy;
 - e. Provisions governing the procedure for filing a claim under the policy;
 - f. Provisions governing cancellation, renewal, or amendment of the policy by either the insurer or the policyholder;
 - g. Any options under the policy; and
 - h. Provisions governing the insurer's duties and powers in the event that suit is filed against the insured.

(b) In determining whether or not a policy is written in a logical and clear order and form the Commissioner must consider the following factors:

- (1) The extent to which sections or provisions are set off and clearly identified by titles, headings, or margin notations;
- (2) The use of a more readable format, such as narrative or outline forms;
- (3) Margin size and the amount and use of space to separate sections of the policy; and
- (4) Contrast and legibility of the colors of the ink and paper and the use of contrasting titles or headings for sections. (1979, c. 755, s. 1.)

§ 58-38-25. Flesch scale analysis readability score; procedures.

- (a) A Flesch scale analysis readability score will be measured as provided in this section.
- (b) For policies containing 10,000 words or less of text, the entire policy must be analyzed. For policies containing more than 10,000 words, the readability of two 200-word samples per page may be analyzed in lieu of the entire policy. The samples must be separated by at least 20 printed lines. For the purposes of this subsection a word will be counted as five printed characters or spaces between characters.
- (c) The number of words and sentences in the text must be counted and the total number of words divided by the total number of sentences. The figure obtained must be multiplied by a factor of 1.015. The total number of syllables must be counted and divided by the total number of words. The figure obtained must be multiplied by a factor of 84.6. The sum of the figures computed under this subsection subtracted from 206.835 equals the Flesch scale analysis readability score for the policy.
- (d) For the purposes of subsection (c) of this section the following procedures must be used:
 - (1) A contraction, hyphenated word, or numbers and letters, when separated by spaces, will be counted as one word;
 - (2) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, will be counted as a sentence; and
 - (3) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.
- (e) The term "text" as used in this section includes all printed matter except the following:
 - (1) The name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and
 - (2) Any policy language that is drafted to conform to the requirements of any law, regulation, or agency interpretation of any state or the federal government; any policy language required by any collectively bargained agreement; any medical terminology; and any words that are defined in the policy: Provided, however, that the insurer submits with his filing under G.S. 58-38-30 a certified document identifying the language or terminology that is entitled to be excepted by this subdivision. (1979, c. 755, s. 1.)

§ 58-38-30. Filing requirements; duties of the Commissioner.

- (a) No insurer may make, issue, amend, or renew any insurance policy or contract after the dates specified in G.S. 58-38-35 for the applicable type of insurance unless the policy is in

compliance with the provisions of G.S. 58-38-20 and G.S. 58-38-25 and unless the policy is filed with the Commissioner for his approval. The policy will be deemed approved 90 days after filing unless disapproved within the 90-day period. The Commissioner may not unreasonably withhold his approval. Any disapproval must be delivered to the insurer in writing and must state the grounds for disapproval. Any policy filed with the Commissioner must be accompanied by a certified Flesch scale readability analysis and test score and by the insurer's certification that the policy is, in the insurer's judgment, readable based on the factors specified in G.S. 58-38-20 and G.S. 58-38-25.

(b) The Commissioner must disapprove any policy covered by subsection (a) of this section if he finds that:

- (1) It is not accompanied by a certified Flesch scale analysis readability score of 50 or more.
- (2) It is not accompanied by the insurer's certification that the policy is, in the judgment of the insurer, readable under the standards of this Article; or
- (3) It does not comply with the format requirements of G.S. 58-38-20. (1979, c. 755, s. 1; 1979, 2nd Sess., c. 1161, s. 2.)

§ 58-38-35. Application to policies; dates; duties of the Commissioner.

(a) The filing requirements of G.S. 58-38-30 apply as follows:

- (1) As described in Article 36 of this Chapter, to all policies of private passenger nonfleet motor vehicle insurance except as excluded by G.S. 58-38-10(b)(7), to all policies of insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof and valuable interest therein, and other insurance coverages written in connection with the sale of such property insurance except as excluded in G.S. 58-38-10(b)(7), that are made, issued, amended, or renewed after March 1, 1981; and
- (2) To all policies of life insurance as described in Article 58 of this Chapter, to all benefit certificates issued by fraternal orders and societies as described in Articles 24 and 25 of this Chapter, to all policies of accident and health insurance as described in Articles 50 through 55 of this Chapter, to all subscribers' contracts of hospital service corporations as described in Articles 65 and 66 of this Chapter, and to all health maintenance organization evidences of coverage as described in Article 67 of this Chapter, that are made, issued, amended, or renewed after July 1, 1983.

(b) Repealed by Session Laws 1991, c. 720, s. 6. (1979, c. 755, s. 1; 1979, 2nd Sess., c. 1161, s. 3; 1981, c. 888, s. 7; 1983, c. 393, s. 2; 1987, c. 864, s. 11; 1991, c. 720, ss. 6, 42; 2021-169, s. 4.)

§ 58-38-40. Construction.

(a) The provisions of this Article will not operate to relieve any insurer from any provision of law regulating the contents or provisions of insurance policies or contracts nor operate to reduce an insured's or beneficiary's rights or protection granted under any statute or provision of law.

(b) The provisions of this Article shall not be construed to mandate, require, or allow alteration of the legal effect of any provision of any insurance policy or contract.

(c) In any action brought by a policyholder or claimant arising out of a policy approved pursuant to this Article, the policyholder or claimant may base such an action on either or both (i) the substantive language prescribed by such other statute or provision of law or (ii) the wording of the approved policy. (1979, c. 755, s. 1.)