

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 843

Pensions & Retirement and Insurance Committee Substitute Adopted 4/29/97

House Committee Substitute Favorable 8/18/97

House Committee Substitute #2 Favorable 8/28/97

Short Title: Insurance Changes.

(Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO REPEAL OBSOLETE LAWS AND MAKE TECHNICAL AND CLARIFYING AMENDMENTS AND CORRECTIONS IN VARIOUS INSURANCE STATUTES; TO EXTEND THE EXPIRATION DATE OF THE 1986 RISK SHARING PLAN LAW; TO PROVIDE FOR THE LICENSING AND REGULATION OF ENTITIES THAT ADMINISTER WORKERS' COMPENSATION INSURANCE FOR GROUPS OF EMPLOYERS THAT SELF-INSURE; AND TO AMEND THE LAW GOVERNING AGENTS INCLUDING AUTHORIZING PERSONS IN AGENTS' OFFICES TO CALL FOR POLICY EXPIRATIONS.

The General Assembly of North Carolina enacts:

PART I. REPEALS OF OBSOLETE OR UNNECESSARY PROVISIONS.

Section 1. G.S. 58-3-125, 58-6-10, 58-7-150, 58-41-35, and 58-71-90 are repealed.

Section 2. G.S. 58-2-120 reads as rewritten:

"§ 58-2-120. Reports of Commissioner to the Governor and General Assembly.

1 ~~The Commissioner shall biennially submit to the General Assembly, through the~~
2 ~~Governor, a report of his official acts, including a summary of official rulings and~~
3 ~~regulations.—The Commissioner shall, from time to time, report to the Governor and the~~
4 ~~General Assembly any change which that in his the Commissioner's opinion should be~~
5 ~~made in the laws relating to insurance and other subjects pertaining to his department. On~~
6 ~~or before the first day of February of each year in which the General Assembly is in~~
7 ~~session he shall make to the Governor the recommendations called for in this section, to~~
8 ~~be transmitted to the General Assembly, with the last annual report of this Department,~~
9 ~~including receipts and disbursements. the Department."~~

10 Section 3. G.S. 58-87-10(e) reads as rewritten:

11 "(e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund
12 from appropriations made to the Department of Insurance for this purpose. In addition,
13 every eligible unit that elects to participate shall pay into the Fund an amount set annually
14 by the State Fire and Rescue Commission to ensure that the Fund will be able to meet its
15 payment obligations under this section. The amount shall be set as a per capita fixed
16 dollar amount for each member of the roster of the eligible unit.

17 The payment shall be made to the State Fire and Rescue Commission on or before
18 July 1 of each year. The Commission shall remit the payments it receives to the State
19 Treasurer, who shall credit the payments to the Fund. ~~If the Commission does not receive an~~
20 ~~annual payment from an eligible unit by July 1, then that unit shall not receive workers'~~
21 ~~compensation coverage from the Fund for the fiscal year that begins that July 1."~~

22 Section 4. G.S. 120-123(55) and (65) are repealed.

23 Section 5. G.S. 58-36-15(e) reads as rewritten:

24 "(e) The Commissioner may require the filing of supporting data including:

- 25 (1) The Bureau's interpretation of any statistical data relied upon;
- 26 (2) Descriptions of the methods employed in setting the rates;
- 27 (3) Analysis of the incurred losses submitted on an accident year or policy
28 year basis into their component parts; to wit, paid losses, reserves for
29 losses and loss expenses, and reserves for losses incurred but not
30 reported;
- 31 (4) The total number and dollar amount of paid claims;
- 32 (5) The total number and dollar amount of case basis reserve claims;
- 33 (6) Earned and written premiums at current rates by rating territory;
- 34 (7) Earned premiums and incurred losses according to classification plan
35 categories; and
- 36 (8) Income from investment of unearned premiums and loss and loss
37 expense reserves generated by business within this State.

38 ~~Provided, however, that with respect to business written prior to January 1, 1980, the~~
39 ~~Commissioner shall not require the filing of such supporting data which has not been~~
40 ~~required to be recorded under statistical plans approved by the Commissioner."~~

41 Section 6. G.S. 58-3-115 reads as rewritten:

42 "**§ 58-3-115. Twisting with respect to insurance policies; penalties.**

1 No insurer shall make or issue, or cause to be issued, any written or oral statement that
2 willfully misrepresents or willfully makes an incomplete comparison as to the terms,
3 conditions, or benefits contained in any policy of insurance for the purpose of inducing or
4 attempting to induce a policyholder in any way to terminate or surrender, exchange, or
5 convert any insurance policy. Any person who violates this section is subject to the
6 provisions of ~~G.S. 58-2-70, 58-3-90 through 58-3-100, and 58-3-125.~~ G.S. 58-2-70 or G.S.
7 58-3-100."

8 Section 7. G.S. 58-30-75(7) reads as rewritten:

9 "(7) Without first obtaining the written consent of the ~~Commissioner pursuant~~
10 ~~to G.S. 58-7-150,~~ Commissioner, the insurer has (i) transferred, or
11 attempted to transfer, in a manner contrary to Article 19 of this Chapter,
12 substantially its entire property or business, or (ii) has entered into any
13 transaction, the effect of which is to merge, consolidate, or reinsure
14 substantially its entire property or business in or with the property or
15 business of any other person."

16 Section 8. G.S. 58-41-40(a) reads as rewritten:

17 "(a) There is no liability on the part of and no cause of action for defamation or
18 invasion of privacy arises against any insurer or its authorized representatives, agents, or
19 employees, or any licensed insurance agent or broker, for any communication or
20 statement made, unless shown to have been made in bad faith with malice, in any of the
21 following:

- 22 (1) A written notice of cancellation under ~~G.S. 58-41-15,~~ G.S. 58-41-15 or of
23 nonrenewal under G.S. 58-41-20, ~~or of cessation of business through an~~
24 ~~agency under G.S. 58-41-35,~~ specifying the reasons therefor; for
25 cancellation.
26 (2) Communications providing information pertaining to ~~such cancellation,~~
27 ~~nonrenewal, or cessation of business through an agency;~~ the cancellation or
28 nonrenewal.
29 (3) Evidence submitted at any court proceeding, administrative hearing, or
30 informal inquiry in which ~~such cancellation, nonrenewal, or cessation of~~
31 ~~business through an agency~~ the cancellation or nonrenewal is an issue."

32 **PART II. AMENDMENTS NECESSARY BECAUSE OF 1995 REWRITE OF G.S.**
33 **58-2-50.**

34 Section 9. G.S. 58-34-2(j) reads as rewritten:

35 "(j) The Commissioner shall disapprove any such contract that:

- 36 (1) Does not contain the required contract provisions specified in subsection
37 (d) of this section;
38 (2) Subjects the insurer to excessive charges for expenses or commission;
39 (3) Vests in the MGA any control over the management of the affairs of the
40 insurer to the exclusion of the board of directors of the insurer;
41 (4) Is entered into with any person if the person or its officers and directors
42 are of known bad character or have been affiliated directly or indirectly
43 through ownership, control, management, reinsurance transactions, or

1 other insurance or business relationships with any person known to have
2 been involved in the improper manipulation of assets, accounts, or
3 reinsurance; or

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

6 Failure of the Commissioner to disapprove any such contract within 30 days after the
7 contract has been filed with the Commissioner constitutes the Commissioner's approval
8 of the contract. An insurer may continue to accept business from ~~such~~ the person until the
9 Commissioner disapproves the contract. Any disapproval shall be in writing. The
10 Commissioner ~~may, after a hearing held under G.S. 58-2-50, may~~ withdraw approval of any
11 contract the Commissioner has previously approved ~~upon finding if the Commissioner~~
12 determines that the basis of the original approval no longer exists or that the contract has,
13 in actual operation, shown itself to be subject to disapproval on any of the grounds in this
14 subsection. If the Commissioner withdraws approval of a contract, the Commissioner
15 shall give the insurer notice of, and written reasons for, the withdrawal of approval. The
16 Commissioner shall grant any party to the contract a hearing upon request."

17 Section 10. G.S. 58-34-15(b) reads as rewritten:

18 "(b) If the Commissioner disapproves any management contract, ~~notice of such~~
19 ~~action shall be given to the insurer assigning the reasons therefor in writing. the Commissioner~~
20 shall give notice of, and written reasons for, the disapproval to the insurer. The
21 Commissioner shall grant any party to the contract a hearing upon request according to
22 G.S. 58-2-50-request."

23 Section 11. G.S. 58-40-100 reads as rewritten:

24 "**§ 58-40-100. Request for review of rate, rating plan, rating system or underwriting**
25 **rule.**

26 (a) Any person aggrieved by any rate charged, rating plan, rating system, or
27 underwriting rule followed or adopted by an insurer or rating organization may request in
28 writing that the insurer or rating organization to review the manner in which the rate,
29 plan, system, or rule has been applied with respect to insurance afforded him. Such request
30 may be made by his authorized representative, and shall be in writing. the person's insurance.
31 The person's authorized representative may make the request. If the request is not
32 granted within 30 days after it is made, the requestor may treat it as rejected. Any person
33 aggrieved by the action of an insurer or rating organization in refusing the review
34 requested or in failing or refusing to grant all or part of the relief requested, may file a
35 written complaint and request for hearing with the Commissioner, and shall specify the
36 grounds relied upon. If the Commissioner has information concerning a similar ~~complaint~~
37 ~~he~~ complaint, the Commissioner may deny the hearing. If the Commissioner believes
38 that probable cause for the complaint does not exist or that the complaint is not made in
39 good faith, ~~he~~ the Commissioner shall deny the hearing. If the Commissioner finds that
40 the complaint charges a violation of this Article and that the complainant would be
41 aggrieved if the violation is proven, ~~he~~ the Commissioner shall proceed as provided in
42 G.S. 58-2-50 or 58-2-70.

- 43 (b) Repealed by Session Laws 1985 (Regular Session, 1986), c. 1027, s. 15."

1 Section 12. G.S. 58-42-1 reads as rewritten:

2 **"§ 58-42-1. Establishment of plans.**

3 If the Commissioner finds, after a ~~hearing held in accordance with G.S. 58-2-50, hearing,~~
4 that in all or any part of this State, any amount or kind of insurance authorized by G.S.
5 58-7-15(4) through G.S. 58-7-15(22) is not readily available in the voluntary market
6 and that the public interest requires the availability of that insurance, ~~he—the~~
7 Commissioner may either:

- 8 (1) Promulgate plans to provide insurance coverage for any risks in this
9 State that are, based on reasonable underwriting standards, entitled to
10 obtain but are otherwise unable to obtain coverage; or
11 (2) Call upon insurers to prepare plans for ~~his—the~~ Commissioner's
12 approval."

13 Section 13. G.S. 58-45-50 reads as rewritten:

14 **"§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from**
15 **Commissioner to superior court.**

16 Any person or any insurer who may be aggrieved by an act, ruling or decision of the
17 Association other than an act, ruling or decision relating to the cause or amount of a
18 claimed loss, may, within 30 days after ~~such ruling—the ruling,~~ appeal to the
19 Commissioner. Any hearings held by the Commissioner ~~pursuant to such an—under the~~
20 appeal shall be in accordance with the procedure set forth in G.S. 58-2-50; rules adopted by
21 the Commissioner. Provided, however, the Commissioner is authorized to appoint a
22 member of his—the Commissioner's staff as deputy commissioner for the purpose of
23 hearing such—those appeals and a ruling based upon such—the hearing shall have—has the
24 same effect as if heard by the Commissioner. All persons or insureds aggrieved by any
25 order or decision of the Commissioner may appeal as ~~is—provided by the provisions of in~~
26 G.S. 58-2-75.

27 No later than 20 days before each hearing, the appellant shall file with the
28 Commissioner or his designated hearing officer and shall serve on the appellee a written
29 statement of ~~his—the~~ appellant's case and any evidence he—that the appellant intends to offer
30 at the hearing. No later than five days before ~~such—the~~ hearing, the appellee shall file with
31 the Commissioner or ~~his—the~~ designated hearing officer and shall serve on the appellant a
32 written statement of his—the appellant's case and any evidence he—that the appellee intends
33 to offer at the hearing. ~~Each such hearing shall be recorded and transcribed. The cost of such~~
34 ~~recording and transcribing shall be borne equally by the appellant and appellee; provided that~~
35 ~~upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by~~
36 ~~the other party.—The procedures governing recordings of hearings and, if necessary,~~
37 transcripts of recordings, as well as the fees for copies of recordings and transcripts, shall
38 be determined by rules adopted by the Commissioner. Each party shall, on a date
39 determined by the Commissioner or his designated hearing officer, but not sooner than 15
40 days after delivery of the completed transcript to the party, submit to the Commissioner
41 or his designated hearing officer and serve on the other party, a proposed order. The
42 Commissioner or his designated hearing officer shall then issue an order."

43 Section 14. G.S. 58-45-70 reads as rewritten:

1 **"§ 58-45-70. Commissioner may examine affairs of Association.**

2 The Commissioner may from time to time make an examination into the affairs of the
3 Association when ~~he~~ the Commissioner deems it to be ~~prudent and in undertaking such~~
4 ~~examination~~ ~~he~~ prudent, and as part of the examination the Commissioner may hold a
5 public hearing ~~pursuant to the provisions of G.S. 58-2-50.~~ hearing. ~~The expenses of such~~
6 ~~examination shall be borne and paid by the Association.~~ The Association shall pay the
7 expenses of the examination."

8 Section 15. G.S. 58-46-20(c) reads as rewritten:

9 "(c) The Commissioner may designate the kinds of property insurance policies on
10 principal residences to be offered by the association, including insurance policies under
11 Article 36 of this Chapter, and the commission rates to be paid to agents or brokers for
12 these policies, if ~~he~~ the Commissioner finds, after a ~~hearing held in accordance with G.S. 58-~~
13 ~~2-50,~~ hearing, that the public interest requires the designation. The provisions of Chapter
14 150B of the General Statutes do not apply to any procedure under this subsection, except
15 that G.S. 150B-39 and G.S. 150B-41 shall apply to a hearing under this subsection.
16 Within 30 days after the receipt of notification from the Commissioner of a change in
17 designation ~~pursuant to~~ under this subsection, the association shall submit a revised plan
18 and articles of association for approval in accordance with subsection (b) of this section."

19 Section 16. G.S. 58-46-30 reads as rewritten:

20 **"§ 58-46-30. Appeals; judicial review.**

21 The association shall provide reasonable means, to be approved by the Commissioner,
22 whereby any person or insurer affected by any act or decision of the administrators of the
23 Plan or underwriting association, other than an act or decision relating to the cause or
24 amount of a claimed loss, may be heard in person or by an authorized representative,
25 before the governing board of the association or a designated committee. Any person or
26 insurer aggrieved by any decision of the governing board or designated committee, may
27 be appealed to the Commissioner within 30 days from the date of ~~such~~ the ruling or
28 decision. The Commissioner, after hearing held ~~pursuant to the procedure set forth in G.S.~~
29 ~~58-2-50,~~ under rules adopted by the Commissioner, shall issue an order approving or
30 disapproving the act or decision with respect to the matter ~~which~~ that is the subject of
31 appeal. The Commissioner ~~is authorized to~~ may appoint a member of ~~his~~ the
32 Commissioner's staff as deputy commissioner for the purpose of hearing ~~such~~ the appeals
33 and a ruling based on ~~such~~ the hearing ~~shall have~~ has the same effect as if heard by the
34 ~~Commissioner personally.~~ Commissioner. All persons or insurers or their representatives
35 aggrieved by any order or decision of the Commissioner may appeal as provided ~~by the~~
36 provisions of in G.S. 58-2-75.

37 No later than 20 days before each hearing, the appellant shall file with the
38 Commissioner or ~~his~~ the designated hearing officer and shall serve on the appellee a
39 written statement of ~~his~~ the appellant's case and any evidence ~~he~~ that the appellant intends
40 to offer at the hearing. No later than five days before ~~such~~ the hearing, the appellee shall
41 file with the Commissioner or ~~his~~ the designated hearing officer and shall serve on the
42 appellant a written statement of ~~his~~ the appellee's case and any evidence ~~he~~ that the
43 appellee intends to offer at the hearing. ~~Each such hearing shall be recorded and transcribed.~~

1 The cost of such recording and transcribing shall be borne equally by the appellant and appellee;
2 provided that upon any final adjudication the prevailing party shall be reimbursed for his share of
3 such costs by the other party. The procedures governing recordings of hearings and, if
4 necessary, transcripts of recordings, as well as the fees for copies of recordings and
5 transcripts, shall be determined by rules adopted by the Commissioner. Each party shall,
6 on a date determined by the Commissioner or ~~his~~ the designated hearing officer, but not
7 sooner than 15 days after delivery of the completed transcript to the party, submit to the
8 Commissioner or ~~his~~ the designated hearing officer and serve on the other party, a
9 proposed order. The Commissioner or ~~his~~ the designated hearing officer shall then issue
10 an order."

11 **PART III. CONTINUING CARE RETIREMENT COMMUNITY NAME**
12 **CORRECTION AND RECEIVERSHIPS.**

13 Section 17. G.S. 58-30-10(14) reads as rewritten:

14 "(14) 'Insurer' means any entity licensed under Articles 7, 16, 26, 49, 65,
15 or 67 of this Chapter and any employer that has furnished to the
16 Commissioner satisfactory proof of its financial responsibility under
17 G.S. 97-93(a)(2). For purposes of this Article, 'insurer' also includes
18 continuing care retirement ~~centers~~ communities licensed under
19 Article 64 of this Chapter."

20 Section 18. The title of Article 64 of Chapter 58 of the General Statutes reads
21 as rewritten:

22 **"ARTICLE 64.**

23 ~~"Registration, Disclosure, Contract, and Financial Monitoring Requirements for~~
24 ~~Continuing Care Facilities.~~ Retirement Communities."

25 Section 19. G.S. 58-64-1 reads as rewritten:

26 **"§ 58-64-1. Definitions.**

27 As used in this Article, unless otherwise specified:

- 28 (1) 'Continuing care' means the furnishing to an individual other than an
29 individual related by blood, marriage, or adoption to the person
30 furnishing the care, of lodging together with nursing services,
31 medical services, or other health related services, ~~pursuant to~~ under
32 an agreement effective for the life of the individual or for a period ~~in~~
33 ~~excess of~~ longer than one year.
- 34 (2) 'Entrance fee' means a payment that assures a resident a place in a
35 facility for a term of years or for life.
- 36 (3) 'Facility' means the ~~place or places~~ retirement community or
37 communities in which a provider undertakes to provide continuing
38 care to an individual.
- 39 (4) 'Health related services' means, at a minimum, nursing home
40 admission or assistance in the activities of daily living, exclusive of
41 the provision of meals or cleaning services.

- 1 (5) 'Living unit' means a room, apartment, cottage, or other area within a
2 facility set aside for the exclusive use or control of one or more
3 identified residents.
- 4 (6) 'Provider' means the promoter, developer, or owner of a ~~continuing~~
5 ~~care~~—facility, whether a natural person, partnership, or other
6 unincorporated association, however organized, trust, or corporation,
7 of an institution, building, residence, or other place, whether
8 operated for profit or not, or any other person, that solicits or
9 undertakes to provide continuing care under a continuing care
10 facility contract, or that represents ~~himself~~ himself, herself, or itself
11 as providing continuing care or 'life care.'
- 12 (7) 'Resident' means a purchaser of, a nominee of, or a subscriber to, a
13 continuing care contract.
- 14 (8) 'Hazardous financial condition' means a provider is insolvent or in
15 eminent danger of becoming insolvent."

16 Section 20. G.S. 58-64-40(b) reads as rewritten:

17 "(b) The board of directors or other governing body of a ~~continuing care~~—facility or
18 its designated representative shall hold annual meetings with the residents of the
19 ~~continuing care~~—facility for free discussions of subjects including, but not limited to,
20 income, expenditures, and financial trends and problems as they apply to the facility and
21 discussions of proposed changes in policies, programs, and services. Residents shall be
22 entitled to at least seven days advance notice of each meeting. An agenda and any
23 materials that will be distributed by the governing body at the meetings shall remain
24 available upon request to residents."

25 Section 21. G.S. 58-64-80 reads as rewritten:

26 "**§ 58-64-80. Advisory Committee.**

27 There shall be a nine member Continuing Care Advisory Committee appointed by the
28 Commissioner. The Committee shall consist of at least two residents of ~~continuing care~~
29 ~~communities~~—facilities, two representatives of the North Carolina Association of
30 Nonprofit Homes for the Aging, one individual who is a certified public accountant and
31 is licensed to practice in this State, one individual skilled in the field of architecture or
32 engineering, and one individual who is a health care professional."

33 Section 21.1. Article 64 of Chapter 58 of the General Statutes is amended by
34 adding a new section to read:

35 "**§ 58-64-46. Receiverships; exception for facility beds.**

36 When the Commissioner has been appointed as a receiver under Article 30 of this
37 Chapter for a provider or facility subject to this Article, and if it appears to the court,
38 upon petition of the Commissioner or the provider, or on the court's own motion, that the
39 best interests of the facility or the welfare of persons who have previously contracted
40 with the provider or may contract with the facility may be best served by the addition of
41 adult care home beds, the Department of Human Resources may, notwithstanding any
42 other provision of law, accept and approve the addition of beds for that facility."

1 **PART IV. WORKERS' COMPENSATION LOSS COSTS CONFORMING**
2 **CHANGES.**

3 Section 22. G.S. 58-36-1(2) reads as rewritten:

4 "(2) The Bureau shall provide reasonable means to be approved by the
5 Commissioner whereby any person affected by a rate or loss costs
6 made by it may be heard in person or by ~~his~~ the person's authorized
7 representative before the governing committee or other proper
8 executive of the Bureau."

9 Section 23. G.S. 58-36-1(5)c. reads as rewritten:

10 "c. Failure or refusal by any assigned employer risk to make full
11 disclosure to the Bureau, servicing carrier, or insurer writing a
12 policy of information regarding the employer's true ownership,
13 change of ownership, operations, or payroll, or any other failure
14 to disclose fully any records pertaining to workers' compensation
15 insurance shall be sufficient grounds for ~~the Bureau to authorize~~
16 the termination of the policy of that employer."

17 Section 24. G.S. 58-36-10 reads as rewritten:

18 **"§ 58-36-10. Method of rate making; factors considered.**

19 The following standards ~~shall~~ apply to the making and use of ~~rates~~: rates or loss costs:

20 (1) Rates or loss costs shall not be excessive, inadequate or unfairly
21 discriminatory.

22 (2) Due consideration shall be given to actual loss and expense
23 experience within this State for the most recent three-year period for
24 which ~~such~~ that information is available; to prospective loss and
25 expense experience within this State; to the hazards of conflagration
26 and catastrophe; to a reasonable margin for underwriting profit and
27 to contingencies; to dividends, savings, or unabsorbed premium
28 deposits allowed or returned by insurers to their policyholders,
29 members, or subscribers; to investment income earned or realized by
30 insurers from their unearned premium, loss, and loss expense reserve
31 funds generated from business within this State; to past and
32 prospective expenses specially applicable to this State; and to all
33 other relevant factors within this State: Provided, however, that
34 countrywide expense and loss experience and other countrywide
35 data may be considered only where credible North Carolina
36 experience or data is not available.

37 (3) In the case of fire insurance rates, as are subject to the ratemaking
38 authority of the Bureau, consideration may be given to the
39 experience of such fire insurance business during the most recent
40 five-year period for which ~~such~~ that experience is available. In the
41 case of fire insurance rates that are subject to the ratemaking
42 authority of the Bureau, consideration shall be given to the insurance
43 public protection classifications of rural fire districts based upon

standards established by the Commissioner. To the extent credits are provided for proximity to fire hydrants, the Bureau may also provide appropriate credits in public protection classifications for optional water sources, such as ponds, lakes, or other bodies of water, in accordance with standards and procedures filed with and approved by the Commissioner.

(4) Risks may be grouped by classifications and lines of insurance for establishment of ~~rates~~ rates, loss costs, and base premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans ~~which~~ that establish standards for measuring variations in hazards or expense provisions or both. ~~Such~~ Those standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. The Bureau ~~is directed to~~ shall establish and implement a comprehensive classification rating plan for motor vehicle insurance under its jurisdiction within 90 days of September 1, 1977. No such classification plans shall base any standard or rating plan for private passenger (nonfleet) motor vehicles, in whole or in part, directly or indirectly, upon the age or sex of the persons insured. The Bureau shall at least once every three years make a complete review of the filed classification rates to determine whether they are proper and supported by statistical evidence, and shall at least once every 10 years make a complete review of the territories for nonfleet private passenger motor vehicle insurance to determine whether they are proper and reasonable.

(5) In the case of workers' compensation insurance and employers' liability insurance written in connection therewith, due consideration shall be given to the past and prospective effects of changes in compensation benefits and in legal and medical fees that are provided for in General Statutes Chapter 97."

Section 25. G.S. 58-36-15(a) reads as rewritten:

"(a) The Bureau shall file with the Commissioner copies of the rates, loss costs, classification plans, rating plans and rating systems used by its members. Each rate or loss costs filing shall become effective on the date specified in the filing, but not earlier than 105 days ~~from~~ after the date the filing is received by the Commissioner: Provided that (1) rate or loss costs filings for workers' compensation insurance and employers' liability insurance written in connection therewith shall not become effective earlier than 120 days from the date the filing is received by the Commissioner or on the date as provided ~~under~~ in G.S. 58-36-100, whichever is earlier; and (2) any filing may become effective on a date earlier than that specified in this subsection upon agreement between the Commissioner and the Bureau."

Section 26. G.S. 58-36-15(f) reads as rewritten:

1 "(f) On or before September 1 of each calendar ~~year~~ year, or later with the approval
2 of the Commissioner, the Bureau shall submit to the Commissioner the experience, data,
3 statistics, and information referred to in subsection (c) of this section and required under
4 G.S. 58-36-100 and a residual market rate ~~or~~ and prospective loss costs review based on
5 ~~such~~ those data for workers' compensation insurance and employers' liability insurance
6 written in connection therewith. Any rate or loss costs increase for ~~such~~ that insurance
7 that is implemented ~~pursuant to~~ under this Article shall become effective solely to ~~such~~
8 ~~insurance as is written having~~ insurance with an inception date on or after the effective date
9 of the rate or loss costs increase."

10 Section 27. G.S. 58-36-15(g) reads as rewritten:

11 "(g) The following information must be included in policy form, rule, and rate or
12 loss costs filings under this Article and under Article 37 of this Chapter:

- 13 (1) A detailed list of the rates, loss costs, rules, and policy forms filed,
14 accompanied by a list of those superseded; and
- 15 (2) A detailed description, properly referenced, of all changes in policy
16 forms, rules, prospective loss costs, and rates, including the effect of
17 each change."

18 Section 28. G.S. 58-36-30(a) reads as rewritten:

19 "~~(a) No insurer, officer, agent or representative thereof~~ Except as permitted by G.S. 58-
20 36-100 for workers' compensation loss costs filings, no insurer and no officer, agent, or
21 representative of an insurer shall knowingly issue or deliver or knowingly permit the
22 issuance or delivery of any policy of insurance in this State ~~which~~ that does not conform
23 to the rates, rating plans, classifications, schedules, rules and standards made and filed by
24 the Bureau. ~~However, an~~ An insurer may deviate from the rates ~~promulgated~~ adopted by
25 the Bureau ~~provided if~~ the insurer has filed the proposed deviation ~~to be applied both~~ with
26 the Bureau and the Commissioner, ~~and provided the deviation is uniform in its application to~~
27 ~~all risks in the State of the class to which the deviation is to apply; and provided such deviation is~~
28 ~~approved by the Commissioner.~~ if the proposed deviation is based on sound actuarial
29 principles, and if the proposed deviation is approved by the Commissioner. The
30 Commissioner shall approve proposed deviations if they do not render the rates excessive,
31 inadequate or unfairly discriminatory. If approved, the deviation may thereafter be amended,
32 subject to the provisions of this subsection. Amendments to deviations are subject to the
33 same requirements as initial filings. The deviation may be terminated ~~An insurer may~~
34 terminate a deviation only if the deviation has been in effect for a period of six months
35 before the effective date of the termination and the insurer notifies the Commissioner of
36 the termination no later than 15 days before the effective date of the termination."

37 Section 29. G.S. 58-36-30(c) reads as rewritten:

38 "~~(c) Any deviation with respect to workers' compensation and employers' liability~~
39 ~~insurance written in connection therewith as filed under subsection (a) of this section~~
40 ~~shall apply uniformly to all classifications.~~ Any approved rate under subsection (b) of
41 this section with respect to workers' compensation and employers' liability insurance
42 written in connection therewith shall be furnished to the Bureau."

43 Section 30. Effective September 1, 1997, G.S. 58-36-100(a) reads as rewritten:

1 "~~(a) Nothing in this section requires the Bureau or its member insurers to refile~~
2 ~~rates previously implemented before two years after the effective date of this section.~~
3 ~~Any member insurer of the Bureau may continue to use all rates and deviations filed and~~
4 ~~approved for its use until disapproved, or the insurer makes its own filing to change its~~
5 ~~rates, either by making an independent filing or by filing a reference filing adoption form~~
6 ~~adopting the Bureau's prospective loss costs, or modification thereof.~~ Except as provided
7 in subsection subsections (k) and (m) of this section, ~~with the initial prospective loss~~
8 ~~costs reference filing~~, the Bureau shall no longer develop or file any minimum premiums,
9 minimum premium formulas, or expense constants. If an insurer wishes to amend
10 minimum premium ~~formulas, formulas or expense constants~~, it must file the minimum
11 premium rules, formulas, or amounts it proposes to use. A copy of each filing submitted
12 to the Commissioner under subsections (e) and (g) of this section shall also be sent to the
13 Bureau."

14 Section 31. Effective September 1, 1997, G.S. 58-36-100(b)(1) reads as
15 rewritten:

16 "(1) 'Expenses'. – That portion of a rate attributable to acquisition, field
17 supervision, collection expenses, any tax levied by the State or by
18 any political subdivision of the State, licensing costs, fees, and
19 general expenses, as determined by the insurer."

20 Section 32. Effective September 1, 1997, G.S. 58-36-100(c) reads as
21 rewritten:

22 "(c) Except as provided in subsection (m) of this section, for workers' compensation
23 and employers' liability insurance written in connection with workers' compensation
24 insurance, the Bureau shall no longer develop or file advisory final rates that contain
25 provisions for expenses (other than loss adjustment expenses) and profit. The Bureau
26 shall instead develop and file for approval with the Commissioner, in accordance with
27 this section, reference filings containing advisory prospective loss costs and the
28 underlying loss data and other supporting statistical and actuarial information for any
29 calculations or assumptions underlying these loss costs. ~~Loss-based assessments, any tax~~
30 ~~levied by the State or any political subdivision of the State, licensing costs, and fees~~
31 assessments will be included in prospective loss costs."

32 Section 32.1. Effective September 1, 1997, G.S. 58-36-100(k) reads as
33 rewritten:

34 "(k) The Bureau shall file with the Commissioner, for approval, filings containing a
35 revision of rules and supplementary rating information. This includes policy-writing
36 rules, rating plans, classification codes and descriptions, and rules that include factors or
37 relativities, such as ~~employers' liability-increased limits factors, factors and related~~
38 minimum premiums, classification relativities, or similar factors, but excludes minimum
39 premiums-factors. The Bureau may print and distribute manuals of rules and
40 supplementary rating ~~information, excluding minimum premiums information.~~"

41 **PART V. INSURANCE COMPANY FINANCIAL OPERATIONS.**

42 Section 33. G.S. 58-5-63(a) reads as rewritten:

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

6 Section 34. G.S. 58-7-21(a) reads as rewritten:

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

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

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

14 Section 35. G.S. 58-7-31(b)(3) reads as rewritten:

15 "(3) The ceding insurer is required to reimburse the reinsurer for negative
16 experience under the reinsurance agreement; except that neither
17 offsetting experience refunds against current and prior years' losses
18 under the reinsurance agreement nor payment by the ceding insurer
19 of an amount equal to the current and prior years' losses under the
20 reinsurance agreement upon voluntary termination of in-force
21 reinsurance by the ceding insurer are a reimbursement to the
22 reinsurer for negative experience. Voluntary termination does not
23 include situations where termination occurs because of unreasonable
24 provisions that allow the reinsurer to reduce its risk or increase its
25 risk charge under the reinsurance agreement."

26 Section 36. G.S. 58-7-31(d)(1) reads as rewritten:

27 "(1) Reinsurance agreements entered into after October 1, 1993, that
28 involve the reinsurance of business issued ~~prior to~~ before the
29 effective date of the reinsurance agreements, along with any
30 subsequent amendments thereto, shall be filed by the ceding
31 company with the Commissioner within 30 days after its date of
32 execution. Each filing shall include data detailing the ~~final impact~~
33 financial effect of the transaction. The ceding insurer's actuary who
34 signs the financial statement actuarial opinion with respect to
35 valuation of reserves shall consider this ~~statute~~ section and any
36 applicable actuarial standards of practice when determining the
37 proper credit in financial statements filed with the Commissioner.
38 The actuary ~~should~~ shall maintain adequate documentation and be
39 prepared upon request to describe the actuarial work performed for
40 inclusion in the financial statements and to demonstrate that ~~such that~~
41 work conforms to this statute section."

42 Section 37. G.S. 58-7-173(12) reads as rewritten:

1 "(12) Secured obligations of duly constituted churches and of church-
2 holding companies; and the cost of investments made under this
3 subdivision shall not exceed the lesser of one percent (1%) of the
4 insurer's admitted assets ~~of~~ or five percent (5%) of the insurer's
5 capital and surplus."

6 Section 38. The catchline of G.S. 58-7-177 reads as rewritten:

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

8 Section 39. G.S. 58-8-5(a)(3) reads as rewritten:

9 "(3) ~~Said officers shall cause said certificate to be published once a week
10 for two consecutive weeks in a newspaper in Raleigh and in the
11 county where the company's principal office is located, or posted at
12 the courthouse door if no newspaper be published within the county.
13 Said printed or posted notices shall be in such form and of such size
14 as the Commissioner may approve, and in addition to setting forth in
15 full the certificate required in subdivision (2) shall state that
16 application for amending the company's charter in the manner
17 specified has been proposed by the board of directors, and shall also
18 state the time set for a meeting of policyholders thereby called to be
19 held at the principal office of the company to take action on the
20 proposed amendment. A true copy of such notice shall be filed with
21 the Commissioner, and also with that official who performs the
22 functions of Commissioner in each state where the company is
23 licensed to do business. Such publication and filing of notices shall
24 be completed at least 30 days prior to the date set therein for the
25 meeting of policyholders and due proof thereof shall be filed with
26 the Commissioner at least 15 days prior to the date of such meeting.
27 If the meeting at which the proposed amendment is to be considered
28 is a special meeting, rather than a regular annual meeting of
29 policyholders, ~~such special~~ that meeting can be called only after the
30 Commissioner has given his approval in writing, and the published
31 notice shall show the fact of such approval; writing;"~~

32 Section 40. G.S. 58-8-25 reads as rewritten:

33 "**§ 58-8-25. Dividends to policyholders.**

34 (a) Any participating or dividend-paying company, stock or mutual or foreign or
35 domestic, that writes other than life insurance or workers' compensation insurance and
36 employers' liability insurance in connection therewith, may declare and pay a dividend to
37 policyholders from its ~~surplus,~~ unassigned surplus as reflected in the company's most
38 recent annual or quarterly statement filed with the Commissioner, which shall include
39 only its surplus in excess of any required minimum surplus. No such dividend shall be
40 paid unless it is fair and equitable and for the best interest of the company and its
41 policyholders. In declaring any dividend to its policyholders, any such company may
42 make reasonable classifications of policies expiring during a fixed period, upon the basis
43 of each general kind of insurance covered by ~~such~~ those policies and by territorial

1 divisions of the location of risks by states, except that in fixing the amount of dividends
2 to be paid on each general kind of insurance, ~~which the~~ dividends shall be uniform in rate
3 and applicable to the majority of risks within ~~such that~~ general kind of insurance, and
4 exceptions may be made as to any class or classes of risk and a different rate or amount
5 of dividends paid on ~~such the~~ class or classes if the conditions applicable to ~~such the~~ class
6 or classes differ substantially from the condition applicable to the kind of insurance as a
7 whole. Every such company shall have an equal rate of dividend for the same term on all
8 policies insuring risks in the same classification. The payment of dividends to
9 policyholders shall not be contingent upon the maintenance or renewal of the policy. All
10 dividends shall be paid to the policyholder unless a written assignment ~~thereof be of those~~
11 dividends is executed. Neither the payment of dividends nor the rate ~~thereof of the~~
12 dividends may be guaranteed by any company, or its agent, ~~prior to before~~ the declaration
13 of the dividend by the board of directors of ~~such the~~ company. The holders of policies of
14 insurance issued by a company in compliance with the orders of any public official,
15 bureau or committee, in conformity with any statutory requirement or voluntary
16 arrangement, for the issuance of insurance to risks not otherwise acceptable to the
17 company, may be established as a separate class of risks.

18 (b) Any participating or dividend-paying company, stock or mutual or foreign or
19 domestic, that writes workers' compensation insurance and employers' liability insurance
20 in connection therewith may declare and pay a dividend to policyholders from its ~~surplus,~~
21 unassigned surplus as reflected in the company's most recent statement filed with the
22 Commissioner under G.S. 58-2-165, which shall include only its surplus in excess of any
23 required minimum surplus. No such dividend shall be paid unless it is fair and equitable
24 and for the best interest of the company and its policyholders. In declaring any dividend
25 to its policyholders, any such company may make reasonable classifications of policies
26 expiring during a fixed period. The payment of dividends to policyholders shall not be
27 contingent upon the maintenance or renewal of the policy. All dividends shall be paid to
28 the policyholder unless a written assignment ~~thereof be of those dividends is~~ executed.
29 Neither the payment of dividends nor the rate ~~thereof of the dividends~~ may be guaranteed
30 by any company, or its agent, ~~prior to before~~ the declaration of the dividend by the board
31 of directors of ~~such the~~ company. The holders of policies of insurance issued by a
32 company in compliance with the orders of any public official, bureau, or committee, in
33 conformity with any statutory requirement or voluntary arrangement, for the issuance of
34 insurance to risks not otherwise acceptable to the company, may be established as a
35 separate class of risks."

36 Section 41. G.S. 58-9-6(a) reads as rewritten:

37 "(a) The Commissioner shall issue an intermediary license or an exemption from
38 the license, subject to G.S. 58-9-2(b)(2) or G.S. 58-9-2(c)(3), to any person who has
39 complied with the requirements of this Article. A license issued to a noncorporate entity
40 authorizes all of the members of the entity and any designated employees to act as
41 intermediaries under the license, and those persons shall be named in the application and
42 any supplements. A license issued to a corporation authorizes all of the officers and any
43 designated employees and directors of the corporation to act as intermediaries on behalf

1 of the corporation, and those persons shall be named in the application and any
2 supplements."

3 Section 42. G.S. 58-9-11(b) reads as rewritten:

4 "(b) An insurer shall not engage the services of any person to act as a broker on its
5 behalf unless the person is licensed ~~under G.S. 58-9-6.~~ or exempted under this Article. An
6 insurer shall not employ an individual who is employed by a broker with which it
7 transacts business, unless the broker is under common control with the insurer under
8 Article 19 of this Chapter."

9 Section 43. G.S. 58-9-21(a) reads as rewritten:

10 "(a) A reinsurer shall not engage the services of any person to act as a manager on
11 its behalf unless the person is licensed ~~under G.S. 58-9-6.~~ or exempted under this Article."

12 Section 44. G.S. 58-12-2(3) reads as rewritten:

13 "(3) Domestic insurer. – Any insurance company organized in this State
14 ~~under Article 7~~ Article 7 or Article 15 of this Chapter."

15 Section 45. G.S. 58-13-10 reads as rewritten:

16 "**§ 58-13-10. Scope.**

17 (a) This Article applies to all domestic insurers and to all kinds of insurance
18 written by those insurers ~~under Articles 1 through 66~~ of this Chapter. Foreign insurers ~~are to~~
19 shall comply in substance with the requirements and limitations of this section. ~~This~~
20 ~~Article does not apply to variable contracts for which separate accounts are required to be~~
21 ~~maintained nor to statutory deposits that are required to be maintained by insurance regulatory~~
22 ~~agencies as a requirement for doing business in such jurisdictions.~~

23 (b) This Article does not apply to:

24 (1) Variable contracts for which separate accounts are required to be
25 maintained.

26 (2) Statutory deposits that are required to be maintained by insurance
27 regulatory agencies as a requirement for doing business.

28 (3) Real estate authorized under G.S. 58-7-187 and encumbered by a
29 mortgage loan with a first lien."

30 Section 46. G.S. 58-13-15 reads as rewritten:

31 "**§ 58-13-15. Definitions.**

32 As used in this Article:

33 (1) 'Assets' means all property, real or personal, tangible or intangible,
34 legal or equitable, owned by an insurer.

35 (2) 'Claimants' means any owners, beneficiaries, assignees, certificate
36 holders, or third-party beneficiaries of any insurance benefit or right
37 arising out of and within the coverage of an insurance policy covered
38 by this Article.

39 (3) 'Reserve assets' means those assets of an insurer that are authorized
40 investments for policy reserves in accordance with ~~Articles 1 through~~
41 ~~64 of this Chapter and G.S. 58-65-95.~~ this Chapter.

42 (4) 'Policyholder-related liabilities' means those liabilities that are
43 required to be established by an insurer for all of its outstanding

1 insurance policies in accordance with ~~Articles 1 through 64 of this~~
2 ~~Chapter and G.S. 58-65-95, this Chapter.~~"

3 Section 47. G.S. 58-13-20(b) reads as rewritten:

4 "(b) The Commissioner ~~has the right to~~ may examine any of ~~such these~~ assets,
5 reinsurance agreements, or deposit arrangements at any time in accordance with ~~his the~~
6 Commissioner's authority to make examinations of insurers as conferred by other
7 provisions of ~~Articles 1 through 64 of this Chapter.~~"

8 Section 48. G.S. 58-19-5(5) reads as rewritten:

9 "(5) 'Person' means an individual, corporation, partnership, limited
10 liability company, association, joint stock company, trust,
11 unincorporated organization, or any similar entity or any
12 combination of the foregoing acting in concert."

13 Section 49. G.S. 58-19-10(b)(1) reads as rewritten:

14 "(1) Invest, in common stock, preferred stock, debt obligations, and other
15 securities of one or more subsidiaries, amounts that do not exceed
16 the lesser of ten percent (10%) of ~~such the~~ insurer's admitted assets
17 or fifty percent (50%) of ~~such the~~ insurer's surplus as regards
18 policyholders, provided that after ~~such those~~ investments, the
19 insurer's surplus as regards policyholders will be reasonable in
20 relation to the insurer's outstanding liabilities and adequate to its
21 financial needs. In calculating the amount of ~~such the~~ investments,
22 investments in domestic or foreign insurance subsidiaries and health
23 maintenance organizations shall be excluded, and there shall be
24 included: (i) total net monies or other consideration expended and
25 obligations assumed in the acquisition or formation of a subsidiary,
26 including all organizational expenses and contributions to capital
27 and surplus of ~~such the~~ subsidiary whether or not represented by the
28 purchase of capital stock or issuance of other securities; and (ii) all
29 amounts expended in acquiring additional common stock, preferred
30 stock, debt obligations, and other securities, and all contributions to
31 the capital or surplus, of a subsidiary subsequent to its acquisition or
32 formation;"

33 PART VI. HANDICAPPED PERSONS.

34 Section 50. G.S. 168-10 reads as rewritten:

35 "§ 168-10. Eliminate discrimination in treatment of handicapped and disabled.

36 Each handicapped person shall have the same consideration as any other person for
37 individual accident and health insurance coverage, and no insurer, service corporation,
38 multiple employer welfare arrangement, or health maintenance organization subject to
39 Chapter 58 of the General Statutes solely on the basis of ~~such the~~ person's handicap, shall
40 deny ~~such coverage or benefits~~. The availability of ~~such insurance coverage or benefits~~
41 shall not be denied solely ~~due to because of the handicap, provided, however, that no such~~
42 ~~insurer shall be prohibited from excluding by waiver or otherwise, any pre-existing conditions~~
43 ~~from such coverage, and further provided that~~ handicap; however, any such insurer may

1 charge the appropriate premiums or fees for the risk insured on the same basis and
2 conditions as insurance issued to other ~~persons.~~ persons, in accordance with actuarial and
3 underwriting principles prescribed in Chapter 58 of the General Statutes. Nothing
4 contained herein or in any other statute shall restrict or preclude any insurer governed by Chapter
5 58 of the General Statutes from setting and charging a premium or fee based upon the class or
6 classes of risks and on sound actuarial and underwriting principles as determined by such
7 insurer, or from applying its regular underwriting standards applicable to all classes of risks. The
8 provisions of this section shall apply to both corporations governed by Chapter 58 of the General
9 Statutes."

10 Section 51. G.S. 168-22(b) reads as rewritten:

11 "(b) A family care home ~~shall be~~ is deemed a residential use of property for the
12 purposes of determining charges or assessments imposed by political subdivisions or
13 businesses for water, sewer, power, telephone service, cable television, garbage and trash
14 collection, repairs or improvements to roads, streets, and sidewalks, and other services,
15 utilities, and ~~improvements, and for purposes of classification for insurance.~~ improvements."

16 PART VII. AUTOMOBILE INSURANCE.

17 Section 52. G.S. 58-36-75(c) is repealed.

18 Section 53. G.S. 58-36-5(c) reads as rewritten:

19 "(c) ~~The Bureau, when created, Bureau shall adopt such rules and regulations for its~~
20 ~~orderly procedure as shall be that are~~ necessary for its maintenance and operation. No
21 ~~such rules and regulations shall discriminate against any type of insurer because of its plan~~
22 ~~of operation, nor shall any insurer be prevented from returning any unused or unabsorbed~~
23 ~~premium, deposit, savings or earnings to its policyholders or subscribers. The expense of~~
24 ~~such Bureau shall be borne by its members by quarterly contributions to be made in advance,~~
25 ~~such contributions to be made in advance by prorating such expense among the members in~~
26 ~~accordance with the amount of gross premiums derived from the above lines of insurance in~~
27 ~~North Carolina during the preceding year and members entering the Bureau since that date to~~
28 ~~advance an amount to be fixed by the governing committee. After the first fiscal year of~~
29 ~~operation of the Bureau the~~ The necessary expense of the Bureau shall be advanced by the
30 members in accordance with rules and regulations to be established and adopted by the
31 governing committee. The Bureau shall be empowered to may subscribe for or purchase
32 any necessary service, and employ and fix the salaries of such personnel and assistants as
33 are ~~necessary.~~ necessary, charge reasonable fees for its products and services, and engage
34 in any lawful activities related to the objects, functions, duties, responsibilities, or
35 authority of the Bureau."

36 Section 53.1. G.S. 58-37-1(7) reads as rewritten:

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

41 With respect to motor carriers who are subject to the financial
42 responsibility requirements established under the Motor Carrier Act of
43 1980, the term, 'motor vehicle insurance' includes coverage with respect
44 to environmental restoration. As used in this subsection the term,

1 'environmental restoration' means restitution for the loss, damage, or
2 destruction of natural resources arising out of the accidental discharge,
3 dispersal, release, or escape into or upon the land, atmosphere, water
4 course, or body of water of any commodity transported by a motor
5 carrier. Environmental restoration includes the cost of removal and the
6 cost of necessary measures taken to minimize or mitigate damage to
7 human health, the natural environment, fish, shellfish, and wildlife."

8 Section 53.2. G.S. 58-37-35(b)(2) reads as rewritten:

9 "(2) Additional ceding privileges for motor vehicle insurance shall be
10 provided by the Board of Governors if there is a substantial public
11 demand for a coverage or coverage limit of any component of motor
12 vehicle insurance up to the following:

13 Bodily injury liability: one hundred thousand dollars (\$100,000) each
14 person, three hundred thousand dollars (\$300,000) each accident;

15 Property damage liability: fifty thousand dollars (\$50,000) each
16 accident;

17 Medical payments: two thousand dollars (\$2,000) each person;

18 Underinsured motorist: one ~~hundred thousand~~ million dollars ~~(\$100,000)~~
19 ~~(\$1,000,000)~~ each person and ~~three hundred thousand dollars~~ ~~(\$300,000)~~
20 each accident for bodily injury liability;

21 Uninsured motorist: one ~~hundred thousand~~ million dollars ~~(\$100,000)~~
22 ~~(\$1,000,000)~~ each person and each accident for bodily injury and ~~fifteen~~
23 ~~fifty thousand dollars~~ ~~(\$15,000)~~ ~~(\$50,000)~~ for property damage (one
24 hundred dollars (\$100.00) deductible)."

25 Section 53.3. G.S. 58-37-35(e) reads as rewritten:

26 "(e) The Commissioner and member companies shall provide for a Board of
27 ~~Governors within 30 days after May 24, 1973. If any member seat on the initial Board of~~
28 ~~Governors is not filled in accordance with this Article within such time, then, in that~~
29 ~~event the Commissioner shall appoint natural persons from any of the classifications~~
30 ~~specified in subsection (d) of this section to serve the initial term on the Board of~~
31 ~~Governors. As soon as possible after its selection, the Commissioner shall call for the~~
32 ~~initial meeting of the Board. Governors. After the The Board of Governors have been~~
33 ~~selected it shall then elect from its membership a chairman and shall then meet thereafter~~
34 ~~as often as at the call of the chairman shall require or at the request of three four members~~
35 ~~of the Board of Governors. The chairman shall retain the right to vote on all issues. Five~~
36 ~~Seven members of the Board of Governors shall constitute a quorum. The same member~~
37 ~~may not serve as chairman for more than two consecutive years. years; provided,~~
38 ~~however, that a member may continue to serve as chairman until a successor chairman is~~
39 ~~elected and qualified.~~"

40 Section 53.4. G.S. 58-37-40(e) reads as rewritten:

41 "(e) Upon approval of the Commissioner of the plan so submitted or promulgation
42 of a plan deemed approved by the Commissioner, all insurance companies licensed to
43 write motor vehicle insurance in this State or any component thereof as a prerequisite to

1 further engaging in writing the insurance shall formally subscribe to and participate in the
2 plan so approved.

3 The plan of operation shall provide for, among other matters, (i) the establishment of
4 necessary facilities; (ii) the management of the Facility; (iii) the preliminary assessment
5 of all members for initial expenses necessary to commence operations; (iv) the
6 assessment of members if necessary to defray losses and expenses; (v) the distribution of
7 gains to defray losses incurred since September 1, 1977; (vi) the distribution of gains by
8 credit or reduction of recoupment ~~or allocation~~ surcharges to policies subject to
9 recoupment ~~or allocation~~ surcharges pursuant to this Article (the Facility may apportion
10 the distribution of gains among the coverages eligible for cession pursuant to this
11 Article); (vii) the recoupment ~~or allocation~~ of losses sustained by the Facility since
12 September 1, 1977, pursuant to this Article, which losses may be recouped by equitable
13 pro rata assessment of member ~~companies;~~ companies or by way of a surcharge on motor
14 vehicle policies issued by member companies or through the Facility; (viii) the standard
15 amount (one hundred percent (100%) or any equitable lesser amount) of coverage
16 afforded on eligible risks which a member company may cede to the Facility; and (ix) the
17 procedure by which reinsurance shall be accepted by the Facility. The plan shall further
18 provide that:

- 19 (1) Members of the Board of Governors shall receive reimbursement from
20 the Facility for their actual and necessary expenses incurred on Facility
21 business, en route to perform Facility business, and while returning
22 from Facility business plus a per diem allowance of twenty-five dollars
23 (\$25.00) a day which may be waived.
- 24 (2) In order to obtain a transfer of business to the Facility effective when
25 the binder or policy or renewal thereof first becomes effective, the
26 company must within 30 days of the binding or policy effective date
27 notify the Facility of the identification of the insured, the coverage and
28 limits afforded, classification data, and premium. The Facility shall
29 accept risks at other times on receipt of necessary information, but
30 acceptance shall not be retroactive. The Facility shall accept renewal
31 business after the member on underwriting review elects to again cede
32 the business."

33 Section 54. G.S. 58-37-40(f) reads as rewritten:

34 "(f) The plan of operation shall provide that every member shall, following
35 payment of any pro rata assessment, ~~commence~~ begin recoupment of that assessment by
36 way of a surcharge on motor vehicle insurance policies issued by the member or through
37 the Facility until the assessment has been recouped. ~~Such~~ Any surcharge under this
38 subsection or under subsection (e) of this section shall be a percentage of premium
39 adopted by the Board of Governors of the Facility; and the charges determined on the
40 basis of the surcharge shall be combined with and displayed as a part of the applicable
41 premium charges. Provided, however, that recoupment Recoupment of losses sustained by
42 the Facility ~~since September 1, 1977,~~ with respect to nonfleet private passenger motor
43 vehicles may be ~~recouped~~ made only by surcharging nonfleet private passenger motor

1 ~~vehicle insurance policies. policies (i) that are subject to the classification plan promulgated~~
2 ~~pursuant to G.S. 58-36-65 and (ii) to which one or more driving record points have been assigned~~
3 ~~pursuant to said plan, subject to the provisions of G.S. 58-36-75.~~ If the amount collected
4 during the period of surcharge exceeds assessments paid by the member to the Facility,
5 the member shall pay over the excess to the Facility on a date specified by the Board of
6 Governors. If the amount collected during the period of surcharge is less than the
7 assessments paid by the member to the Facility, the Facility shall pay the difference to the
8 member. Except as ~~hereinafter provided, otherwise provided in this Article,~~ the amount of
9 recoupment shall not be considered or treated as a rate or premium for any purpose. The
10 Board of Governors shall adopt and implement a plan for compensation of agents of
11 Facility members when recoupment surcharges are imposed; ~~such that~~ compensation shall
12 not exceed the compensation or commission rate normally paid to the agent for the
13 issuance or renewal of the automobile liability policy issued through the North Carolina
14 Reinsurance Facility affected by ~~such surcharge; provided, however, that the surcharge.~~
15 However, the surcharge ~~provided for in this section~~ shall include an amount necessary to
16 recover the amount of the assessment to member companies and the compensation paid
17 by each member, ~~pursuant to under~~ this section, to agents."

18 Section 55. G.S. 58-37-35(g)(8) reads as rewritten:

19 "(8) To establish fair and reasonable procedures for the sharing among
20 members of any loss on Facility business ~~which that~~ cannot be recouped
21 ~~pursuant to under G.S. 58-37-40(f) (e) or which cannot be recouped or~~
22 ~~allocated under G.S. 58-37-75,~~ and other costs, charges, expenses,
23 liabilities, income, property and other assets of the Facility and for
24 assessing or distributing to members their appropriate shares. ~~Such The~~
25 shares may be based on the member's premiums for voluntary business
26 for the appropriate category of motor vehicle insurance or by any other
27 fair and reasonable method."

28 Section 56. G.S. 58-37-35(l) reads as rewritten:

29 "(l) The classifications, rules, rates, rating plans and policy forms used on motor
30 vehicle insurance policies reinsured by the Facility may be made by the Facility or by any
31 licensed or statutory rating organization or bureau on its behalf and shall be filed with the
32 Commissioner. The Board of Governors shall establish a separate subclassification
33 within the Facility for 'clean risks' ~~as herein defined, risks'.~~ For the purpose of this Article,
34 a 'clean risk' ~~shall be~~ is any owner of a nonfleet private passenger motor vehicle as defined
35 in G.S. 58-40-10, if the owner, principal operator, and each licensed operator in the
36 owner's household have two years' driving experience as licensed drivers and if none of
37 the persons has been assigned any Safe Driver Incentive Plan points under Article 36 of
38 this Chapter during the three-year period immediately preceding either (i) the date of
39 application for a motor vehicle insurance policy or (ii) the date of preparation of a
40 renewal of a motor vehicle insurance policy. ~~Such The~~ filings may incorporate by
41 reference any other material on file with the Commissioner. Rates shall be neither
42 excessive, inadequate nor unfairly discriminatory. If the Commissioner finds, after a
43 hearing, that a rate is either excessive, inadequate or unfairly discriminatory, ~~he the~~

1 Commissioner shall issue an order specifying in what respect it is deficient and stating
2 when, within a reasonable period thereafter, such rate shall be deemed the rate is no longer
3 effective. ~~Said~~ The order is subject to judicial review as set out in Article 2 of this
4 Chapter. Pending judicial review of ~~said~~ the order, the filed classification plan and the
5 filed rates may be used, charged and collected in the same manner as set out in G.S. 58-
6 40-45 of this Chapter. ~~Said~~ The order shall not affect any contract or policy made or
7 issued ~~prior to~~ before the expiration of the period set forth in the order. All rates shall be
8 on an actuarially sound basis and shall be calculated, insofar as is possible, to produce
9 neither a profit nor a loss. However, the rates made by or on behalf of the Facility with
10 respect to 'clean risks', ~~as defined above,~~ risks' shall not exceed the rates charged 'clean
11 risks' who are not reinsured in the Facility. The difference between the actual rate
12 charged and the actuarially sound and self-supporting rates for 'clean risks' reinsured in
13 the Facility may be recouped in similar manner as assessments ~~pursuant to G.S. 58-37-40(f)~~
14 ~~or allocated pursuant to G.S. 58-37-75.~~ under G.S. 58-37-40(f). Rates shall not include any
15 factor for underwriting profit on Facility business, but shall provide an allowance for
16 contingencies. There shall be a strong presumption that the rates and premiums for the
17 business of the Facility are neither unreasonable nor excessive."

18 Section 57. G.S. 58-37-75 is repealed.

19 **PART VIII. WORKERS' COMPENSATION SELF-INSURANCE.**

20 Section 58. G.S. 58-50-60 reads as rewritten:

21 **"§ 58-50-60. Rules for precertification practices.**

22 (a) This section applies to all accident and health insurers under Articles 1 through
23 64 of this Chapter, all third-party administrators and preferred provider arrangements, all
24 entities subject to Articles 65 through 67 of this Chapter, and all self-funded ~~health benefit~~
25 workers' compensation insurance plans.

26 (b) The Commissioner shall adopt reasonable rules governing ~~precertification~~
27 practices and forms utilization review and utilization review organizations ~~affiliated that do~~
28 business with the entities subject to this section."

29 Section 59. G.S. 58-50-65(a) reads as rewritten:

30 "(a) ~~Nothing~~ Except as provided in this subsection, nothing in Articles 50 through
31 55 of this Chapter ~~shall apply~~ applies to ~~or affect any policy of~~ liability or workers'
32 compensation ~~insurance, except that~~ insurance policy. Except for G.S. 58-50-55(a), the
33 provisions of ~~G.S. 58-50-50 and subsections (b) and (c) of G.S. 58-50-55~~ shall ~~this Article and~~
34 Articles 65 and 67 of this Chapter and any administrative rules adopted under those
35 Articles relating to preferred providers and utilization review apply to ~~policies of~~ workers'
36 compensation ~~insurance.~~ insurance policies and to individual and group self-funded
37 workers' compensation insurance plans. If there is any conflict between managed care
38 rules adopted by the Commissioner under this Chapter and managed care rules adopted
39 by the Industrial Commission under G.S. 97-25.2, the Industrial Commission's rules
40 govern. If there is any conflict between managed care provisions in this Chapter and in
41 Chapter 97 of the General Statutes with respect to workers' compensation, the provisions
42 in Chapter 97 govern."

43 **PART IX. CERTIFICATE OF AUTHORITY CONFORMING NAME CHANGE.**

1 Section 60. The phrase "certificate of authority" is deleted and replaced by the
2 word "license" wherever it occurs in each of the following sections of the General
3 Statutes:

4 G.S. 58-4-15. Revocation of certificate of authority.

5 G.S. 58-7-55. Exceptions to requirements of G.S. 58-7-50.

6 G.S. 58-7-70. Effects of redomestication.

7 G.S. 58-15-5. Definitions.

8 G.S. 58-16-35. Unauthorized Insurers Process Act.

9 G.S. 58-24-45. Organization.

10 G.S. 58-24-145. Injunction – Liquidation – Receivership of domestic
11 society.

12 G.S. 58-28-5. Transacting business without certificate of authority
13 prohibited; exceptions.

14 G.S. 58-28-15. Validity of acts or contracts of unauthorized company
15 shall not impair obligation of contract as to the company;
16 maintenance of suits; right to defend.

17 G.S. 58-28-45. Uniform Unauthorized Insurers Act.

18 G.S. 58-30-10. Definitions.

19 G.S. 58-30-55. Condition on release from delinquency proceedings.

20 G.S. 58-30-260. Conservation of property of foreign or alien insurers
21 found in this State.

22 G.S. 58-33-132. Qualifications of instructors.

23 G.S. 58-41-55. Penalties; restitution.

24 G.S. 58-48-35. Powers and duties of the Association.

25 G.S. 58-48-45. Duties and powers of the Commissioner.

26 G.S. 58-57-80. Penalties.

27 PART X. RISK SHARING PLAN SUNSET EXTENSION.

28 Section 61. G.S. 58-42-55 reads as rewritten:

29 "§ 58-42-55. Expiration.

30 This Article ~~shall expire~~ expires on July 1, ~~1997-1999~~.

31 PART XI. HEALTH INSURANCE CLARIFYING CHANGES.

32 Section 62. G.S. 58-50-130(a), as amended by S.L. 1997-259, is amended by
33 adding the following new subdivision:

34 "(4b) Late enrollees may only be excluded from coverage for the greater of 18
35 months or an 18-month preexisting-condition exclusion; however, if
36 both a period of exclusion from coverage and a preexisting-condition
37 exclusion are applicable to a late enrollee, the combined period shall not
38 exceed 18 months. If a period of exclusion from coverage is applied, a
39 late enrollee shall be enrolled at the end of such period in the health
40 benefit plan currently held by the small employer."

41 Section 63.1. G.S. 58-51-55(d), as amended by S.L. 1997-259, reads as
42 rewritten:

1 "(d) Applicability. – Subsection (b1) of this section applies only to group health
2 insurance ~~contracts~~contracts, other than excepted benefits as defined in G.S. 58-68-25,
3 covering more than 50 employees. The remainder of this section applies only to group
4 health insurance contracts covering 20 or more employees. For purposes of this section,
5 'group health insurance contracts' include MEWAs, as defined in G.S. 58-49-30(a)."

6 Section 63.2. G.S. 58-65-90(d), as amended by S.L. 1997-259, reads as
7 rewritten:

8 "(d) Applicability. – Subsection (b1) of this section applies only to subscriber
9 ~~contracts~~contracts, other than excepted benefits as defined in G.S. 58-68-25, covering
10 more than 50 employees. The remainder of this section applies only to group contracts
11 covering 20 or more employees."

12 Section 63.3. G.S. 58-67-75(d), as amended by S.L. 1997-259, reads as
13 rewritten:

14 "(d) Applicability. – Subsection (b1) of this section applies only to group ~~contracts~~
15 contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than
16 50 employees. The remainder of this section applies only to group contracts covering 20
17 or more employees."

18 Section 63.4. G.S. 58-51-15(h), as enacted by S.L. 1997-259, reads as
19 rewritten:

20 "(h) Preexisting Condition Exclusion Clarification. – Sub-subdivision (a)(2)b. of
21 this section does not apply to:

22 (1) Policies issued to eligible individuals under G.S. 58-68-60.

23 (2) Excepted benefits as described in ~~G.S. 58-68-25(b)~~G.S. 58-68-25(b)(1)."

24 Section 63.5. G.S. 58-68-40(e), as enacted by S.L. 1997-259, reads as
25 rewritten:

26 "~~(e) Exception for Coverage Offered Only to Bona Fide Association~~
27 ~~Members~~Coverage. – Subsection (a) of this section does not apply to:

28 (1) Health insurance coverage offered by a health insurer if the coverage is
29 made available in the small group market only through one or more
30 bona fide associations.

31 (2) A self-employed individual as defined in ~~G.S. 58-50-110(21a)~~G.S. 58-
32 50-110(21a), except as otherwise provided for the basic and standard
33 health care plans under the North Carolina Small Employer Group
34 Health Coverage Reform Act."

35 Section 63.6. G.S. 58-68-60(b)(2), as enacted by S.L. 1997-259, reads as
36 rewritten:

37 "(2) Who is not eligible for coverage under (i) ~~an ERISA~~a group health
38 plan, (ii) part A or part B of title XVIII of the Social Security Act, or
39 (iii) a State plan under title XIX of the Act (or any successor program),
40 and does not have other health insurance coverage;".

41 Section 63.7. G.S. 58-50-65(d) reads as rewritten:

1 "(d) The provisions of G.S. ~~58-51-5(5)~~ 58-51-5(a)(5) and G.S. 58-51-15(a)(1), (4),
2 and (10) may be omitted from railroad ticket policies sold only at railroad stations or at
3 railroad ticket offices by railroad employees."

4 Section 63.8. G.S. 58-67-74(a), as enacted by S.L. 1997-225, reads as
5 rewritten:

6 "(a) Every health care plan written by a health maintenance organization ~~and in~~
7 ~~force,~~ that is issued, renewed, or amended on or after October 1, 1997, and that is subject
8 to this Article, shall provide coverage for medically appropriate and necessary services,
9 including diabetes outpatient self-management training and educational services, and
10 equipment, supplies, medications, and laboratory procedures used to treat diabetes.
11 Diabetes outpatient self-management training and educational services shall be provided
12 by a physician or a health care professional designated by the physician. The health
13 maintenance organization shall determine who shall provide and be reimbursed for the
14 diabetes outpatient self-management training and educational services. The same
15 deductibles, coinsurance, and other limitations ~~as that~~ apply to similar services covered
16 under the ~~policy, contract, or plan~~ shall apply to the diabetes coverage required under this
17 section."

18 Section 63.9. G.S. 58-67-79(a), as enacted by S.L. 1997-312, reads as
19 rewritten:

20 "(a) Every health care plan written by a health maintenance organization ~~and in~~
21 ~~force,~~ that is issued, renewed, or amended on or after January 1, 1998, that is subject to
22 this ~~Article~~ Article, and that provides coverage for mastectomy shall provide coverage for
23 reconstructive breast surgery resulting from a mastectomy. The coverage shall include
24 coverage for all stages and revisions of reconstructive breast surgery performed on a
25 nondiseased breast to establish symmetry when reconstructive surgery on a diseased
26 breast is performed. The same deductibles, coinsurance, and other limitations ~~as that~~
27 apply to similar services covered under the ~~policy, contract, or plan~~ shall apply to coverage
28 for reconstructive breast surgery. Reconstruction of the nipple/areolar complex following
29 a mastectomy is covered without regard to the lapse of time between the mastectomy and
30 the reconstruction, subject to the approval of the treating physician."

31 **PART XII. COMMERCIAL INSURANCE FORM DOCUMENT RETENTION.**

32 Section 64. G.S. 58-41-50(g) reads as rewritten:

33 "(g) An insurer subject to this Article may develop and use an individual form or
34 rate as a result of the uniqueness of a particular risk. The form or rate shall be developed,
35 filed, and used in accordance with rules adopted by the Commissioner. Rules adopted by
36 the Commissioner under this section may provide for retention of certain documents and
37 data by insurers instead of insurers filing those records with the Commissioner."

38 **PART XIII. BAIL BONDS.**

39 Section 65. G.S. 58-71-82 reads as rewritten:

40 **"§ 58-71-82. Dual license holding.**

41 If an individual holds a professional bondsman's license or a runner's license and a
42 surety bondsman's license simultaneously, they are considered one license for the

1 purpose of disciplinary actions involving suspension, revocation, or ~~renewal~~ nonrenewal
2 under this Article. Separate renewal fees must be paid for each license, however."

3 **PART XIV. WORKERS' COMPENSATION TPA.**

4 Section 65.1. Article 47 of Chapter 58 of the General Statutes is amended by
5 adding the following new Part:

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

7 **"§ 58-47-210. Definitions.**

8 As used in this Part:

- 9 (1) 'Board' means the board of trustees or other governing body of a group.
10 (2) 'Control' means 'control' as defined in G.S. 58-19-5(2).
11 (3) 'GAAP financial statement' means a financial statement as defined by
12 generally accepted accounting principles.
13 (4) 'Group' means a group of employers that is licensed under Part 1 of this
14 Article.
15 (5) 'Hazardous financial condition' means that, based on its present or
16 reasonably anticipated financial condition, a person is insolvent or,
17 although not yet financially impaired or insolvent, is unlikely to be able
18 to meet obligations with respect to known and reasonably anticipated
19 obligations in the normal course of business.
20 (6) 'Member' means an employer that participates in a group.
21 (7) 'Third-party administrator' or 'TPA' means a person engaged by a board
22 to execute the policies established by the board and to provide day-to-
23 day management of the group. 'Third-Party Administrator' and 'TPA'
24 does not mean:
25 a. An employer 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 individual who is an officer, a member, or an employee of a
37 board.

38 **"§ 58-47-215. TPA authority; license, qualification for approval.**

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

42 (b) An applicant for a license shall file with the Commissioner the information
43 required by subsection (c) of this section on a form prescribed by the Commissioner at

1 least 90 days before the proposed licensing date. No application is complete until the
2 Commissioner has received all required information.

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

4 (1) All organizational documents of the TPA, including articles of
5 incorporation, articles of association, a partnership agreement, a trade
6 name certificate, or a trust agreement, any other applicable documents,
7 and all amendments to these documents;

8 (2) The bylaws, rules, regulations, or similar documents regulating the
9 internal affairs of the TPA;

10 (3) The names, addresses, official positions, and professional qualifications
11 of the individuals who are responsible for the conduct of affairs of the
12 TPA, including (i) all members of the board of directors, executive
13 committee, or other governing board or committee, (ii) the principal
14 officers in the case of a corporation or the partners or members in the
15 case of a partnership or association, (iii) all shareholders holding
16 directly or indirectly ten percent (10%) or more of the voting securities
17 of the TPA, and (iv) any other person who exercises control or influence
18 over the affairs of the TPA;

19 (4) The annual audited GAAP financial statements for the two most recent
20 years that demonstrate the applicant is solvent and an ongoing concern
21 and any other information the Commissioner may require in order to
22 review the current financial condition of the applicant;

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

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

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

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

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

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

41 (f) A TPA shall notify the Commissioner of any material change in its ownership,
42 control, or other fact or circumstance affecting its qualification for a license in this State,
43 30 business days before the change. Failure of the Commissioner to disapprove any

1 material changes within 30 days after the changes have been filed with the Commissioner
2 constitutes the Commissioner's approval of the filed changes.

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

5 **"§ 58-47-220. TPA license; termination; revocation; restrictions.**

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

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

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

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

17 (3) The TPA has refused to be examined or to produce its accounts, records,
18 and files for examination, or any of its officers have refused to give
19 information with respect to its affairs or have refused to perform any
20 other legal obligation as to that examination, when required by the
21 Commissioner;

22 (4) The TPA has, without just cause, refused to pay proper claims or
23 perform services arising under its contract, has caused covered members
24 to accept less than the amount due them, or has caused covered
25 members to employ attorneys or bring suit against the TPA to secure
26 full payment or settlement of the claims;

27 (5) The TPA is an affiliate of or under the same general management,
28 interlocking directorate, or ownership as another TPA or group that
29 unlawfully transacts business in this State;

30 (6) The TPA, or any principal or affiliate of the TPA, has been convicted of
31 or has entered a plea of guilty or nolo contendere to a felony without
32 regard to whether judgment was withheld;

33 (7) The TPA or an affiliate is under revocation, suspension, or nonrenewal
34 in another state;

35 (8) The TPA is in hazardous financial condition;

36 (9) The TPA has filed for protection under the United States Bankruptcy
37 Code or any state receivership law;

38 (10) The financial condition or business practices of the TPA otherwise pose
39 an imminent threat to the public health, safety, or welfare of the
40 residents of this State; or

41 (11) The TPA is found to be in violation of Article 63 of this Chapter.

1 (c) The Commissioner may, after notice and opportunity for hearing, suspend or
2 revoke the license of a TPA if the Commissioner finds that any of the following apply to
3 the TPA:

4 (1) The TPA has violated a rule or an order of the Commissioner or any
5 provision of this Chapter or Chapter 97 of the General Statutes; or

6 (2) The TPA at any time fails to meet any qualification for which issuance
7 of the license could have been refused had the failure then existed and
8 been known to the Commissioner at the time of the application.

9 (d) If the Commissioner determines that a TPA or any other person has not
10 materially complied with this Article or with any rule adopted or order issued under this
11 Article, after notice and opportunity to be heard, the Commissioner may order:

12 (1) For each separate violation, a civil penalty pursuant to G.S. 58-2-70(d);
13 or

14 (2) Revocation, suspension, or nonrenewal of the person's license.

15 (e) If the Commissioner finds that because of a material noncompliance a group
16 has suffered any loss or damage, the Commissioner may maintain a civil action brought
17 by or on behalf of the group and its policyholders and creditors for recovery of
18 compensatory damages for the benefit of the group and its policyholders and creditors or
19 for other appropriate relief.

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

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

29 **PART XV. AGENTS.**

30 Section 65.2. Article 33 of Chapter 58 of the General Statutes is amended by
31 adding the following new section to read:

32 **"§ 58-33-41. Agent or broker of record; managed care contracts.**

33 An insurer or service corporation offering managed care products and an HMO shall
34 recognize a licensed agent or broker that has been designated by an employer to inquire
35 about or secure group health coverage for the employer."

36 Section 65.3. G.S. 58-33-25(o) reads as rewritten:

37 "(o) No license as an agent, broker, or limited representative is required of the
38 following:

39 (1) Any regular salaried officer or employee of an insurance company, of a
40 licensed agent, of a broker, or of a limited representative, if such
41 officer's or employee's duties and responsibilities do not include the
42 negotiation or solicitation of insurance.

- 1 (2) Persons who secure and furnish information on behalf of an employer,
2 where no commission is paid for such service, for the purpose of group
3 or wholesale life insurance, annuities, or group, blanket or franchise
4 health insurance; or for enrolling individuals under such plans or issuing
5 certificates thereunder; or otherwise assisting in administering such
6 plans.
- 7 (3) Employers or their officers or employees, or the trustees of any
8 employee trust plan, to the extent that such employers, officers,
9 employees, or trustees are engaged in the administration or operation of
10 any program of employee benefits for their own employees or the
11 employees of their subsidiaries or affiliates involving the use of
12 insurance issued by a licensed insurance company; provided that such
13 employers, officers, employees, or trustees are not in any manner
14 compensated, directly or indirectly, by the insurance company issuing
15 such insurance.
- 16 (4) Agency office employees acting within the confines of the agent's
17 office, under the direction and personal supervision of the duly licensed
18 agent and within the scope of the agent's license, in the acceptance of
19 applications, personally underwritten by the agent, payment of
20 premiums, and the performance of clerical, stenographic, and similar
21 office duties; provided that the activity does not amount to the
22 interpretation of insurance policies, provisions or coverage, to sales or
23 negotiation of insurance policies, to any underwriting function, or to the
24 signing or verification of applications for insurance.
- 25 (4a) Agency office employees, acting within the confines of an agent's
26 office, under the direct and personal supervision of an agent licensed
27 under this Article and within the scope of the agent's license, who only
28 obtain policy expiration or renewal dates from persons or who only
29 obtain the names of insurance companies with which those persons have
30 coverage; provided, that these activities by these employees are not the
31 primary function of the agent's office, and provided further that these
32 activities do not amount to the interpretation of insurance policies,
33 provisions, or coverage, to sales or negotiation of insurance policies, to
34 any underwriting function, or to the signing or verification of
35 applications for insurance. The Commissioner may adopt rules to
36 govern methods and manners of communications made by employees
37 under this subdivision.
- 38 (5) Licensed insurers authorized to write the kinds of insurance described in
39 G.S. 58-7-15(1) through G.S. 58-7-15(3) that do business without the
40 involvement of a licensed agent."

41 **PART XVI. EFFECT OF HEADINGS.**

1 Section 66. The headings to the parts of this act are a convenience to the
2 reader and are for reference only. The headings do not expand, limit, or define the text of
3 this act.

4 **PART XVII. EFFECTIVE DATE.**

5 Section 67. Sections 30 through 32.1 of this act become effective September 1,
6 1997. Section 61 of this act is effective retroactively to June 30, 1997. Sections 62, 63.4,
7 63.5, and 63.6 of this act are effective retroactively July 1, 1997. Section 63.8 is effective
8 retroactively to June 26, 1997. Section 63.9 is effective retroactively to July 17, 1997.
9 Sections 63.1, 63.2, and 63.3 become effective January 1, 1998. Section 65.1 of this act
10 becomes effective July 1, 1998. The remainder of this act is effective when it becomes
11 law.