

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 339

Short Title: Insurance Amendments.

(Public)

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Sponsors: Senator Johnson.

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Referred to: Insurance.

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March 28, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS SUBSTANTIVE AMENDMENTS TO THE  
INSURANCE LAWS AND OTHER LAWS RELATED TO THE DEPARTMENT  
OF INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-36-50 reads as rewritten:

"§ 58-36-50. ~~Limitation.~~ **Limitation; farmers mutual policy forms.**

(a) ~~Nothing~~ Except as provided in subsections (c) and (d) of this section, ~~nothing~~ in this Article shall apply to any town or county farmers mutual fire insurance association restricting its operations to not more than six adjacent counties in this State, or to domestic insurance ~~companies, associations, orders or fraternal benefit societies~~ companies now doing business in this State on the assessment plan.

(b) Nothing in this Article applies to fraternal benefit societies or orders that are subject to Articles 24 and 25 of this Chapter.

(c) Entities referred to in subsection (a) of this section must use the policy forms promulgated pursuant to this Article for the kinds of insurance the companies are permitted to write. There shall be attached to or included in each of these policies the portion of the bylaws that constitute a part of the policy contract. Bylaws or their amendments that are not a part of the policy contract shall not affect the policy contract unless they are included as an endorsement mailed or delivered to the policyholder.

(d) Entities referred to in subsection (a) of this section shall file with the Commissioner for approval copies of all policy forms and endorsements that they intend to use in the transaction of their business. The rates used by these entities must be filed with the Commissioner for informational purposes."

1           Sec. 2. G.S. 58-8-35 reads as rewritten:

2   "**§ 58-8-35. Contingent liability printed on policy.**

3       Every insurance company licensed to do business in this State shall print upon the  
4 ~~filing face of its policies~~ front of the policy and application in clear and explicit  
5 language the full contingent liability of its ~~members.~~ members, in accordance with the  
6 rules adopted by the Commissioner."

7           Sec. 3. G.S. 58-33-35(6) is repealed.

8           Sec. 4. G.S. 58-41-50 is amended by adding a new subsection to read:

9       "(g) An insurer subject to this Article may develop and use an individual form or  
10 rate as a result of the uniqueness of a particular risk. The form or rate shall be  
11 developed, filed, and used in accordance with rules adopted by the Commissioner."

12           Sec. 5. G.S. 58-43-5 reads as rewritten:

13   "**§ 58-43-5. Limitation as to amount and term; indemnity contracts for difference**  
14 **in actual value and cost of ~~replacement.~~ replacement; functional**  
15 **replacement.**

16       No insurance company or agent shall knowingly issue any fire insurance policy upon  
17 property within this State for an amount which, together with any existing insurance  
18 thereon, exceeds the fair value of the property, nor for a longer term than seven years:  
19 Provided, any fire insurance company authorized to transact business in this State may,  
20 by appropriate riders or endorsements or otherwise, provide insurance indemnifying the  
21 insured for the difference between the actual value of the insured property at the time  
22 any loss or damage occurs, and the amount actually expended to repair, rebuild or  
23 replace on the premises described in the policy, or some other location within the State  
24 of North Carolina with new materials of like size, kind and quality, such property as has  
25 been damaged or destroyed by fire or other perils insured ~~against.~~ against: Provided  
26 further, that the Commissioner may adopt rules which permit the insurance company, at  
27 the option of the insured, to replace the property with similar property which performs  
28 the same function when replacement with materials of like size, kind, and quality is not  
29 possible, necessary or cannot be done without extraordinary expense. The rules may  
30 also provide for credits when functional replacement cost coverage is provided.  
31 Policies issued in violation of this section are binding upon the company issuing them,  
32 but the company is liable for the forfeitures by law prescribed for such violation."

33           Sec. 6. G.S. 58-28-5(a) is amended by adding a new subdivision to read:

34       "(8) Insurance on vessels or craft, their cargoes, marine builders' risks,  
35 marine protection and indemnity, or other risks commonly insured  
36 under marine insurance policies, as distinguished from inland marine  
37 insurance policies."

38           Sec. 7. G.S. 58-7-15 reads as rewritten:

39   "**§ 58-7-15. Kinds of insurance authorized.**

40       The kinds of insurance which may be authorized in this State, subject to the other  
41 provisions of Articles 1 through 64 of this Chapter, are set forth in the following  
42 paragraphs. Except to the extent an insurer participates in a risk sharing plan under  
43 Article 42 of this Chapter, nothing herein contained shall require any insurer to insure  
44 every kind of risk which it is authorized to insure. Except to the extent an insurer

1 participates in a risk sharing plan under Article 42 of this Chapter no insurer may  
2 transact any other business than that specified in its charter and articles of association.  
3 The power to do any kind of insurance against loss of or damage to property shall  
4 include the power to insure all lawful interests in such property and to insure against  
5 loss of use and occupancy, rents and profits resulting therefrom; but no kind of  
6 insurance shall be deemed to include life insurance or insurance against legal liability  
7 for personal injury or death unless specified herein. In addition to any power to engage  
8 in any other kind of business than an insurance business which is specifically conferred  
9 by the provisions of Articles 1 through 64 of this Chapter, any insurer authorized to do  
10 business in this State may engage in such other kind or kinds of business to the extent  
11 necessarily or properly incidental to the kind or kinds of insurance business which it is  
12 authorized to do in this State. Each of the following paragraphs indicates the scope of  
13 the kind of insurance business specified therein:

- 14 (1) 'Life insurance,' meaning every insurance upon the lives of human  
15 beings and every insurance appertaining thereto. The business of life  
16 insurance shall be deemed to include the granting of endowment  
17 benefits; additional benefits in the event of death by accident or  
18 accidental means; additional benefits operating to safeguard the  
19 contract from lapse, or to provide a special surrender value, in the  
20 event of total and permanent disability of the insured, including  
21 industrial sick benefit; and optional modes of settlement of proceeds.
- 22 (2) 'Annuities,' meaning all agreement to make periodical payments,  
23 whether in fixed or variable dollar amounts, or both, ~~where the making~~  
24 ~~or continuance of all or of some of a series of such payments, or the~~  
25 ~~amount of any such payment, is dependent upon the continuance of~~  
26 ~~human life, except payments made under the authority of subdivision~~  
27 ~~(1) at specified intervals.~~
- 28 (3) 'Accident and health insurance,' meaning  
29 a. Insurance against death or personal injury by accident or by any  
30 specified kind or kinds of accident and insurance against  
31 sickness, ailment or bodily injury except as specified in  
32 paragraph b following; and  
33 b. Noncancellable disability insurance, meaning insurance against  
34 disability resulting from sickness, ailment or bodily injury (but  
35 not including insurance solely against accidental injury), under  
36 any contract which does not give the insurer the option to  
37 cancel or otherwise terminate the contract at or after one year  
38 from its effective date or renewal date.
- 39 (4) 'Fire insurance,' meaning insurance against loss of or damage to any  
40 property resulting from fire, including loss or damage incident to the  
41 extinguishment of a fire or to the salvaging of property in connection  
42 therewith.
- 43 (5) 'Miscellaneous property insurance,' meaning loss of or damage to  
44 property resulting from

- 1 a. Lightning, smoke or smudge, windstorm, tornado, cyclone,  
2 earthquake, volcanic eruption, rain, hail, frost and freeze,  
3 weather or climatic conditions, excess or deficiency of  
4 moisture, flood, the rising of the waters of the ocean or its  
5 tributaries, or  
6 b. Insects, or blights, or from disease of such property other than  
7 animals, or  
8 c. Electrical disturbance causing or concomitant with a fire or an  
9 explosion in public service or public utility property, or  
10 d. Bombardment, invasion, insurrection, riot, civil war or  
11 commotion, military or usurped power, any order of a civil  
12 authority made to prevent the spread of a conflagration,  
13 epidemic or catastrophe, vandalism or malicious mischief,  
14 strike or lockout, or explosion; but not including any kind of  
15 insurance specified in subdivision (9), except insurance against  
16 loss or damage to property resulting from:  
17 1. Explosion of pressure vessels (except steam boilers of  
18 more than 15 pounds pressure) in buildings designed and  
19 used solely for residential purposes by not more than  
20 four families,  
21 2. Explosion of any kind originating outside of the insured  
22 building or outside of the building containing the  
23 property insured,  
24 3. Explosion of pressure vessels which do not contain  
25 steam or which are not operated with steam coils or  
26 steam jackets,  
27 4. Electrical disturbance causing or concomitant with an  
28 explosion in public service or public utility property.
- 29 (6) 'Water damage insurance,' meaning insurance against loss or damage  
30 by water or other fluid or substance to any property resulting from the  
31 breakage or leakage of sprinklers, pumps or other apparatus erected for  
32 extinguishing fires or of water pipes or other conduits or containers, or  
33 resulting from casual water entering through leaks or openings in  
34 buildings or by seepage through building walls, but not including loss  
35 or damage resulting from flood or the rising of the waters of the ocean  
36 or its tributaries; and including insurance against accidental injury of  
37 such sprinklers, pumps, fire apparatus, conduits or containers.
- 38 (7) 'Burglary and theft insurance,' meaning:  
39 a. Insurance against loss of or damage to any property resulting  
40 from burglary, theft, larceny, robbery, forgery, fraud,  
41 vandalism, malicious mischief, confiscation or wrongful  
42 conversion, disposal or concealment by any person or persons,  
43 or from any attempt at any of the foregoing, and

- 1                   b.       Insurance against loss of or damage to moneys, coins, bullion,  
2                   securities, notes, drafts, acceptances or any other valuable  
3                   papers or documents, resulting from any cause, except while in  
4                   the custody or possession of and being transported by any  
5                   carrier for hire or in the mail.
- 6           (8)       'Glass insurance,' meaning insurance against loss of or damage to  
7                   glass and its appurtenances resulting from any cause.
- 8           (9)       'Boiler and machinery insurance,' meaning insurance against loss of or  
9                   damage to any property of the insured, resulting from the explosion of  
10                  or injury to:  
11                  a.       Any boiler, heater or other fired pressure vessel;  
12                  b.       Any unfired pressure vessel;  
13                  c.       Pipes or containers connected with any of said boilers or  
14                  vessels;  
15                  d.       Any engine, turbine, compressor, pump or wheel;  
16                  e.       Any apparatus generating, transmitting or using electricity;  
17                  f.       Any other machinery or apparatus connected with or operated  
18                  by any of the previously named boilers, vessels or machines;  
19                  and including the incidental power to make inspections of and to issue  
20                  certificates of inspection upon, any such boilers, apparatus, and  
21                  machinery, whether insured or otherwise.
- 22           (10)       'Elevator insurance,' meaning insurance against loss of or damage to  
23                   any property of the insured, resulting from the ownership, maintenance  
24                   or use of elevators, except loss or damage by fire.
- 25           (11)       'Animal insurance,' meaning insurance against loss of or damage to  
26                   any domesticated or wild animal resulting from any cause.
- 27           (12)       'Collision insurance,' meaning insurance against loss of or damage to  
28                   any property of the insured resulting from collision of any other object  
29                   with such property, but not including collision to or by elevators or to  
30                   or by vessels, craft, piers or other instrumentalities of ocean or inland  
31                   navigation.
- 32           (13)       'Personal injury liability insurance,' meaning insurance against legal  
33                   liability of the insured, and against loss, damage or expense incident to  
34                   a claim of such liability, and including an obligation of the insurer to  
35                   pay medical, hospital, surgical and funeral benefits and in the case of  
36                   automobile liability insurance including also disability and death  
37                   benefits to injured persons, irrespective of legal liability of the insured,  
38                   arising out of the death or injury of any person, or arising out of injury  
39                   to the economic interests of any person as a result of negligence in  
40                   rendering expert, fiduciary or professional service, but not including  
41                   any kind of insurance specified in subdivision (15).
- 42           (14)       'Property damage liability insurance,' meaning insurance against legal  
43                   liability of the insured, and against loss, damage or expense incident to  
44                   a claim of such liability, arising out of the loss or destruction of, or

- 1 damage to, the property of any other person, but not including any  
2 kind of insurance specified in subdivision (13) or (15).
- 3 (15) 'Workers' compensation and employer's liability insurance,' meaning  
4 insurance against the legal liability, whether imposed by common law  
5 or by statute or assumed by contract, of any employer for the death or  
6 disablement of, or injury to, his or its employee.
- 7 (16) 'Fidelity and surety insurance,' meaning:
- 8 a. Guaranteeing the fidelity of persons holding positions of public  
9 or private trust;
- 10 b. Becoming surety on, or guaranteeing the performance of, any  
11 lawful contract except the following:
- 12 1. A contract of indebtedness secured by title to, or  
13 mortgage upon, or interest in, real or personal property;
- 14 2. Any insurance contract except reinsurance;
- 15 c. Becoming surety on, or guaranteeing the performance of, bonds  
16 and undertakings required or permitted in all judicial  
17 proceedings or otherwise by law allowed, including surety  
18 bonds accepted by states and municipal authorities in lieu of  
19 deposits as security for the performance of insurance contracts;
- 20 d. Guaranteeing contracts of indebtedness secured by any title to,  
21 or interest in, real property, only to the extent required for the  
22 purpose of refunding, extending, refinancing, liquidating or  
23 salvaging obligations heretofore lawfully made and guaranteed;
- 24 e. Indemnifying banks, bankers, brokers, financial or moneyed  
25 corporations or associations against loss resulting from any  
26 cause of bills of exchange, notes, bonds, securities, evidences of  
27 debts, deeds, mortgages, warehouse receipts, or other valuable  
28 papers, documents, money, precious metals and articles made  
29 therefrom, jewelry, watches, necklaces, bracelets, gems,  
30 precious and semiprecious stones, including any loss while the  
31 same are being transported in armored motor vehicles, or by  
32 messenger, but not including any other risks of transportation or  
33 navigation; also against loss or damage to such an insured's  
34 premises, or to his furnishings, fixtures, equipment, safes and  
35 vaults therein, caused by burglary, robbery, theft, vandalism or  
36 malicious mischief, or any attempt thereat.
- 37 (17) 'Credit insurance,' meaning indemnifying merchants or other persons  
38 extending credit against loss or damage resulting from the nonpayment  
39 of debts owed to them; and including the incidental power to acquire  
40 and dispose of debts so insured, and to collect any debts owed to such  
41 insurer or to any person so insured by him including without limiting  
42 the foregoing, mortgage guaranty insurance which is insurance against  
43 financial loss by reason of the nonpayment of principal, interest and  
44 other sums agreed to be paid under the terms of any note or bond, or

1 other evidence of indebtedness secured by a security interest,  
2 mortgage, deed of trust, or other instrument constituting a lien or  
3 charge on real estate, or on such personal property as the  
4 Commissioner may from time to time approve.

5 (18) 'Title insurance,' meaning insuring the owners of real property and  
6 chattels real and other persons lawfully interested therein against loss  
7 by reason of defective titles and encumbrances thereon and insuring  
8 the correctness of searches for all instruments, liens or charges  
9 affecting the title to such property, including the power to procure and  
10 furnish information relative thereto, and such other incidental powers  
11 as are specifically granted in Articles 1 through 64 of this Chapter.

12 (19) 'Motor vehicle and aircraft insurance,' meaning insurance against loss  
13 of or damage resulting from any cause to motor vehicles or aircraft and  
14 their equipment, and against legal liability of the insured for loss or  
15 damage to the property of another resulting from the ownership,  
16 maintenance or use of motor vehicles or aircraft and against loss,  
17 damage or expense incident to a claim of such liability.

18 (20) 'Marine insurance,' meaning insurance against any and all kinds of  
19 loss or damage to:

20 a. Vessels, craft, aircraft, cars, automobiles and vehicles of every  
21 kind, as well as all goods, freights, cargoes, merchandise,  
22 effects, disbursements, profits, moneys, bullion, precious  
23 stones, securities, choses in action, evidences of debt, valuable  
24 papers, bottomry and respondentia interests and all other kinds  
25 of property and interests therein, in respect to, appertaining to  
26 or in connection with any and all risks or perils of navigation,  
27 transit, or transportation, including war risks, on or under any  
28 seas or other waters, on land or in the air, or while being  
29 assembled, packed, crated, baled, compressed or similarly  
30 prepared for shipment or while awaiting the same or during any  
31 delays, storage, transshipment, or reshipment incident thereto,  
32 including marine builder's risks and all personal property floater  
33 risks, and

34 b. Person or to property in connection with or appertaining to a  
35 marine, inland marine, transit or transportation insurance,  
36 including liability for loss of or damage to either, arising out of  
37 or in connection with the construction, repair, operation,  
38 maintenance or use of the subject matter of such insurance (but  
39 not including life insurance or surety bonds nor insurance  
40 against loss by reason of bodily injury to the person arising out  
41 of the ownership, maintenance or use of automobiles), and

42 c. Precious stones, jewels, jewelry, gold, silver and other precious  
43 metals, whether used in business or trade or otherwise and

1                   whether the same be in course of transportation or otherwise,  
2                   and  
3           d.       Bridges, tunnels and other instrumentalities of transportation  
4                   and communication (excluding buildings, their furniture and  
5                   furnishings, fixed contents and supplies held in storage) unless  
6                   fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot  
7                   and/or civil commotion are the only hazards to be covered;  
8                   piers, wharves, docks and slips, excluding the risks of fire,  
9                   tornado, sprinkler leakage, hail, explosion, earthquake, riot  
10                  and/or civil commotion; other aids to navigation and  
11                  transportation, including dry docks and marine railways against  
12                  all risks.

13           (21) 'Marine protection and indemnity insurance,' meaning insurance  
14                  against, or against legal liability of the insured for, loss, damage or  
15                  expense arising out of, or incident to, the ownership, operation,  
16                  chartering, maintenance, use, repair or construction of any vessel, craft  
17                  or instrumentality in use in ocean or inland waterways, including  
18                  liability of the insured for personal injury, illness or death or for loss of  
19                  or damage to the property of another person.

20           (22) 'Miscellaneous insurance,' meaning insurance against any other  
21                  casualty authorized by the charter of the company, not included in  
22                  subdivisions (1) to (21) inclusive of this section, which is a proper  
23                  subject of insurance."

24           Sec. 8. G.S. 58-58-110(a) reads as rewritten:

25           "(a) Each insurer admitted to transact insurance in this State which, without the  
26                  written consent of the beneficiary, fails or refuses to pay the death proceeds or death  
27                  benefits in accordance with the terms of any policy ~~of life or accident insurance~~  
28                  providing a death benefit issued by it in this State within 30 days after receipt of  
29                  satisfactory proof of loss because of the death, whether accidental or otherwise, of the  
30                  insured shall pay interest, at a rate not less than the then current rate of interest on death  
31                  proceeds left on deposit with the insurer computed from the date of the insured's death,  
32                  on any moneys payable and unpaid after the expiration of such 30-day period. As used  
33                  in this subsection, the phrase "satisfactory proof of loss because of the death" includes,  
34                  but is not limited to, a certified copy of the death certificate; or a written statement by  
35                  the attending physician at the time of death that contains the following information: (i)  
36                  the name and address of the physician, who must be duly licensed to practice medicine  
37                  in the United States; (ii) the name of the deceased; (iii) the date, time, and place of the  
38                  death; and (iv) the immediate cause of the death."

39           Sec. 9. G.S. 58-58-140 reads as rewritten:

40           "**§ 58-58-140. Group life insurance standard provisions.**

41           No policy of group life insurance shall be delivered in this State unless it contains in  
42                  substance the following provisions, or provisions which in the opinion of the  
43                  Commissioner are more favorable to the persons insured, or at least as favorable to the  
44                  persons insured and more favorable to the policyholder, provided, however, (i) that



1 subdivisions (6) to (10) inclusive shall not apply to policies issued to a creditor to insure  
2 debtors of such creditor; (ii) that the standard provisions required for individual life  
3 insurance policies shall not apply to group life insurance policies; and (iii) that if the  
4 group life insurance policy is on a plan of insurance other than the term plan, it shall  
5 contain a nonforfeiture provision or provisions which in the opinion of the  
6 Commissioner is or are equitable to the insured persons and to the policyholder, but  
7 nothing herein shall be construed to require that group life insurance policies contain the  
8 same nonforfeiture provisions as are required for individual life insurance policies:

- 9 (1) A provision that the policyholder is entitled to a grace period of 31  
10 days for the payment of any premium due except the first, during  
11 which grace period the death benefit coverage shall continue in force,  
12 unless the policyholder shall have given the insurer written notice of  
13 discontinuance in advance of the date of discontinuance and in  
14 accordance with the terms of the policy. The policy may provide that  
15 the policyholder shall be liable to the insurer for the payment of a pro  
16 rata premium for the time the policy was in force during such grace  
17 period.
- 18 (2) A provision that the validity of the policy shall not be contested,  
19 except for nonpayment of premiums, after it has been in force for two  
20 years from its date of issue; and that no statement made by any person  
21 insured under the policy relating to his insurability shall be used in  
22 contesting the validity of the insurance with respect to which such  
23 statement was made after such insurance has been in force prior to the  
24 contest for a period of two years during such person's lifetime nor  
25 unless it is contained in a written instrument signed by him.
- 26 (3) A provision that a copy of the application, if any, of the policyholder  
27 shall be attached to the policy when issued, that all statements made by  
28 the policyholder or by the persons insured shall be deemed  
29 representations and not warranties, and that no statement made by any  
30 person insured shall be used in any contest unless a copy of the  
31 instrument containing the statement is or has been furnished to such  
32 person or to his beneficiary.
- 33 (4) A provision setting forth the conditions, if any, under which the insurer  
34 reserves the right to require a person eligible for insurance to furnish  
35 evidence of individual insurability satisfactory to the insurer as a  
36 condition to part or all of his coverage.
- 37 (5) A provision specifying an equitable adjustment of premiums or of  
38 benefits or of both to be made in the event the age of a person insured  
39 has been misstated, such provision to contain a clear statement of the  
40 method of adjustment to be used.
- 41 (6) A provision that any sum becoming due by reason of the death of the  
42 person insured shall be payable to the beneficiary designated by the  
43 person insured, subject to the provisions of the policy in the event  
44 there is no designated beneficiary as to all or any part of such sum

1 living at the death of the person insured, and subject to any right  
2 reserved by the insurer in the policy and set forth in the certificate to  
3 pay at its option a part of such sum not exceeding two hundred fifty  
4 dollars (\$250.00) to any person appearing to the insurer to be equitably  
5 entitled thereto by reason of having incurred funeral or other expenses  
6 incident to the last illness or death of the person insured.

7 (7) A provision that the insurer will issue to the policyholder for delivery  
8 to each person insured an individual certificate setting forth a  
9 statement as to the insurance protection to which he is entitled, to  
10 whom the insurance benefits are payable, and the rights and conditions  
11 set forth in (8), (9) and (10) following.

12 (8) A provision that if the insurance, or any portion of it, on a person  
13 covered under the policy ceases because of termination of employment  
14 or of membership in the class or classes eligible for coverage under the  
15 policy, such person shall be entitled to have issued to him by the  
16 insurer, without evidence of insurability, an individual policy of life  
17 insurance without disability or other supplementary benefits, provided  
18 application for the individual policy shall be made, and the first  
19 premium paid to the insurer, within 31 days after such termination, and  
20 provided further that,

21 a. The individual policy shall, at the option of such person, be on  
22 any one of the forms, except term insurance, then customarily  
23 issued by the insurer at the age and for the amount applied for;

24 b. The individual policy shall be in an amount not in excess of the  
25 amount of life insurance which ceases because of such  
26 termination, provided that any amount of insurance which shall  
27 have matured on or before the date of such termination as an  
28 endowment payable to the person insured, whether in one sum  
29 or in installments or in the form of an annuity, shall not, for the  
30 purposes of this provision, be included in the amount which is  
31 considered to cease because of such termination; and

32 c. The premium on the individual policy shall be at the insurer's  
33 then customary rate applicable to the form and amount of the  
34 individual policy, to the class of risk to which such person then  
35 belongs, and to his age attained on the effective date of the  
36 individual policy.

37 (9) A provision that if the group policy terminates or is amended so as to  
38 terminate the insurance of any class of insured persons, every person  
39 insured thereunder at the date of such termination whose insurance  
40 terminates and who has been so insured for at least five years prior to  
41 such termination date shall be entitled to have issued to him by the  
42 insurer an individual policy of life insurance, subject to the same  
43 conditions and limitations as are provided by (8) above, except that the  
44 group policy may provide that the amount of such individual policy

1 shall not exceed the smaller of (i) the amount of the person's life  
 2 insurance protection ceasing because of the termination or amendment  
 3 of the group policy, less the amount of any life insurance for which he  
 4 is or becomes eligible under any group policy issued or reinstated by  
 5 the same or another insurer within 31 days after such termination, and  
 6 (ii) ~~two thousand dollars (\$2,000)~~ ten thousand dollars (\$10,000).

7 (10) A provision that if a person insured under the group policy dies during  
 8 the period within which he would have been entitled to have an  
 9 individual policy issued to him in accordance with (8) or (9) above and  
 10 before such an individual policy shall have become effective, the  
 11 amount of life insurance which he would have been entitled to have  
 12 issued to him under such individual policy shall be payable as a claim  
 13 under the group policy, whether or not application for the individual  
 14 policy or the payment of the first premium therefor has been made."

15 Sec. 10. G.S. 58-60-35(a)(2) reads as rewritten:

16 "(2) 'Prearrangement insurance policy' means a life insurance policy,  
 17 annuity contract, or other insurance contract, or any series of contracts  
 18 or agreements in any form or manner, issued on a group or individual  
 19 basis by an insurance company authorized by law to do business in this  
 20 State, which, whether by assignment or otherwise, has for a purpose  
 21 the funding of a specific preneed funeral contract or a specific  
 22 insurance-funded funeral or burial prearrangement, the insured being  
 23 the person for whose service the funds were paid."

24 Sec. 11. G.S. 58-51-80(g) reads as rewritten:

25 "(g) Any policy or contract of group accident, group health or group accident and  
 26 health insurance may provide for readjustment of the rate of premium based on the  
 27 experience thereunder at the end of the first year, or at any time during any subsequent  
 28 year based upon at least 12 months of experience: Provided that any such readjustment  
 29 after the first year shall not be made any more frequently than once every six months.  
 30 Any rate adjustment must be preceded by a 60-day notice prior to the effective date of  
 31 any rate increase or any policy benefit revision. A notice of nonrenewal shall be given  
 32 60 days prior to termination. Any refund under any plan for readjustment of the rate of  
 33 premium based on the experience under group policies and any dividend paid under  
 34 such policies may be used to reduce the employer's or principal's contribution to group  
 35 insurance for the employees of the employer, or the agents of the principal, and the  
 36 excess over such contribution by the employer, or principal, shall be applied by the  
 37 employer, or principal, for the sole benefit of the employees or agents."

38 Sec. 12. G.S. 58-51-30 reads as rewritten:

39 "**§ 58-51-30. Policies to cover newborn ~~infants~~ infants and adopted and foster**  
 40 **children.**

41 Every policy of insurance and every hospital service or medical service plan as  
 42 defined in Articles 65 and 66 of this ~~Chapter~~ Chapter, and any health care plan operated  
 43 by a health maintenance organization as defined in Article 67 of this Chapter (regardless  
 44 of whether any of such policies or plans shall be defined as individual, family, group,

1 blanket, franchise, industrial or otherwise) which provides benefits on account of any  
2 sickness, illness, or disability of any minor child or which provides benefits on account  
3 of any medical treatment or service authorized or permitted to be furnished by a hospital  
4 under the laws of this State to any minor child shall provide such benefits for such  
5 occurrences beginning with the moment of birth of such child if such birth occurs while  
6 said ~~policy or policy~~, ~~subscriber contract~~ contract, or evidence of coverage with such a  
7 plan is in force.

8 Benefits in such insurance ~~policies or plans~~ policies, plans, or evidence of coverage  
9 shall be the same for congenital defects or anomalies as are provided for most  
10 sicknesses or illnesses suffered by minor children which are covered by said ~~policies or~~  
11 policies, plans, or evidence of coverage. Benefits for congenital defects or  
12 anomalies shall specifically include, but not be limited to, all necessary treatment and  
13 care needed by individuals born with cleft lip or cleft palate.

14 No policy or plan subscriber contract or evidence of coverage shall be approved by  
15 the Commissioner of Insurance pursuant to the provisions of this Article or the  
16 provisions of Articles ~~65 and 66~~ 65, 66, and 67 of this Chapter that does not comply  
17 with the provisions of this section.

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

21 Sec. 13. G.S. 58-67-50(c) reads as rewritten:

22 "(c) The Commissioner shall, within a reasonable period, approve any form if the  
23 requirements of paragraph (1) are met and any schedule of premiums if the  
24 requirements of paragraph (2) are met. It shall be unlawful to issue such form or to use  
25 such schedule of premiums until approved. If the Commissioner disapproves such  
26 filing, he shall notify the filer. In the notice, the Commissioner shall specify the reasons  
27 for his disapproval. A hearing will be granted within 30 days after a request in writing  
28 by the person filing. If the Commissioner does not approve or disapprove any form or  
29 schedule of premiums within ~~30~~ 90 days of the filing of such forms or premiums, they  
30 shall be deemed approved."

31 Sec. 14. Article 3 of Chapter 58 of the General Statutes is amended by  
32 adding a new section to read:

33 **"§ 58-3-102. Request for determination of coverage under health benefit payment**  
34 **mechanisms; required response time; penalties.**

35 (a) As used in this section, 'insurer' includes any payer of health benefits that is  
36 subject to this Chapter.

37 (b) When a person or that person's health care provider or representative requests  
38 that person's insurer to determine whether or not a particular health care treatment or  
39 procedure is eligible for benefits under that person's health benefit coverage, the insurer  
40 shall, within 10 days after receipt of the request, inform the requesting person as to  
41 whether or not there is coverage.

42 (c) This section applies only to health care treatments or procedures that are  
43 deemed to be medically necessary by the person's health care provider.

1 (d) An insurer that fails to comply with this section is subject to a civil penalty of  
 2 one thousand dollars (\$1,000) for each day after the 10-day period referred to in  
 3 subsection (b) of this section that it fails to comply."

4 Sec. 15. G.S. 58-69-5 reads as rewritten:

5 **"§ 58-69-5. License required.**

6 No motor club, district or branch office of a motor club, or franchise motor club  
 7 shall engage in business in this State unless it holds a valid license issued to it by the  
 8 Commissioner as ~~hereinafter provided.~~ provided in this Article. The license shall at all  
 9 times be prominently displayed in each office of the entity to which the license is  
 10 issued."

11 Sec. 16. G.S. 58-33-25(e) reads as rewritten:

12 "(e) A limited representative may receive qualification for one or more licenses  
 13 without examination for the following kinds of insurance:

14 (1), (2) Repealed by Session Laws 1989, c. 485, s. 19.

15 (3) Credit Life, Accident and Health

16 (4) Credit

17 (5) Travel Accident and Baggage

18 (6) Motor Club

19 (7) ~~Dental Service.~~ Services

20 (8) Bail bonds executed or countersigned by surety bondsmen under  
 21 Article 71 of this Chapter."

22 Sec. 17. G.S. 58-71-80 reads as rewritten:

23 **"§ 58-71-80. Grounds for denial, suspension, revocation or refusal to renew**  
 24 **licenses.**

25 (a) The Commissioner may deny, suspend, or revoke or refuse to renew any  
 26 license issued under this Article for any of the following causes:

27 (1) For any cause sufficient to deny, suspend, or revoke license under any  
 28 other provision of this Article.

29 (2) Violation of any laws of this State relating to bail in the course of  
 30 dealings under the license issued him by the Commissioner.

31 (3) Material misstatement, misrepresentation or fraud in obtaining the  
 32 license.

33 (4) Misappropriation, conversion or unlawful withholding of moneys  
 34 belonging to insurers or others and received in the conduct of business  
 35 under the license.

36 (5) Fraudulent or dishonest practices in the conduct of business under the  
 37 license.

38 (6) Conviction of a felony regardless of the time such conviction occurred  
 39 and regardless of whether such conviction resulted from conduct in or  
 40 related to the bail bond business.

41 (7) Failure to comply with or violation of the provisions of this Article or  
 42 of any order, rule or regulation of the Commissioner.

43 (8) When in the judgment of the Commissioner, the licensee has in the  
 44 conduct of his affairs under the license, demonstrated ~~incompetency~~

1 ~~incompetency, financial irresponsibility, or untrustworthiness~~  
2 ~~untrustworthiness;~~ or that he is no longer in good faith carrying on the  
3 bail bond ~~business-business;~~ or that he is guilty of rebating, or offering  
4 to rebate, or offering to divide the premiums received for the bond.

5 (9) For failing to pay any judgment or decree rendered on any forfeited  
6 undertaking in any court of competent jurisdiction.

7 (10) For charging or receiving, as premium or compensation for the making  
8 of any deposit or bail bond, any sum in excess of that permitted by this  
9 Article.

10 (11) For requiring, as a condition of his executing a bail bond, that the  
11 principal agree to engage the services of a specified attorney.

12 (12) For cheating on an examination for a license under this Article.

13 (13) For entering into any business association or agreement with any  
14 person, which person is at that time found by the Commissioner to be  
15 in violation of any of the bail bond laws of this State, or which person  
16 has been in any manner disqualified under the bail bond laws of any  
17 other state, whereby such person has any direct or indirect financial  
18 interest in the bail bond business of the licensee or applicant.

19 (14) For knowingly aiding or abetting others to evade or violate the  
20 provisions of this Article.

21 (15) Any cause for which issuance of the license could not have been  
22 refused had it then existed and been known to the Commissioner at the  
23 time of issuance.

24 (b) ~~The Commissioner, in lieu of revoking or suspending~~ Commissioner may  
25 suspend or revoke a license in accordance with the provisions of this Article, and may,  
26 in any one proceeding, by order, require the licensee to pay to the school fund in the  
27 county of his residence a civil penalty in the sum of two hundred fifty dollars (\$250.00)  
28 for each offense. Upon failure of such licensee to pay the penalty within 20 days after  
29 the mailing of such order, postage prepaid, registered and addressed to the last known  
30 place of business of such licensee, unless such order is stayed by an order of the court of  
31 competent ~~jurisdiction, jurisdiction~~ or unless the Commissioner has already suspended  
32 or revoked the license of the licensee, the Commissioner may revoke the license of such  
33 licensee or may suspend the same for such period as he may determine."

34 Sec. 18. G.S. 58-71-105 reads as rewritten:

35 "**§ 58-71-105. Persons prohibited from becoming surety or runners.**

36 No sheriff, deputy sheriff, other law-enforcement officer, judicial official, attorney,  
37 parole officer, probation officer, jailer, assistant jailer, employee of the General Court of  
38 Justice, nor other public employee assigned to duties relating to the administration of  
39 criminal justice, nor the spouse of any such person, may in any case become surety on a  
40 bail bond for any person. In addition, no person covered by this section may act as an  
41 agent for any bonding company or professional bondsman. No such person may have an  
42 interest, directly or indirectly, in the financial affairs of any firm or corporation whose  
43 principal business is acting as ~~bondsmen~~ a bail bondsman. Provided, however, nothing  
44 ~~herein shall prohibit~~ in this section prohibits any such person above designated from

1 being surety upon the bond of his or her spouse, parent, brother, sister, ~~ehild~~child, or  
2 descendant."

3 Sec. 19. G.S. 58-71-185 reads as rewritten:

4 **"§ 58-71-185. Penalties for violations.**

5 Any person, firm, association or corporation violating any of the provisions of this  
6 Article is guilty of a misdemeanor and shall upon conviction for each offense be fined  
7 not more than five hundred dollars (\$500.00) or imprisoned for not more than six  
8 months, or both, in the discretion of the court."

9 Sec. 20. G.S. 58-71-165 reads as rewritten:

10 **"§ 58-71-165. Monthly report required.**

11 Each professional bail bondsman and surety bondsman shall file with the  
12 Commissioner of Insurance a written report in form prescribed by the Commissioner  
13 regarding all bail bonds on which he is liable as of the first day of each month showing  
14 (i) each individual bonded, (ii) the date such bond was given, (iii) the principal  
15 sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged  
16 for the bonding service in each instance. Such report shall be filed on or before the  
17 fifteenth day of each month. Within the same time, a copy of this written report must  
18 also be filed with the clerk of superior court in any county in which he is obligated on  
19 bail bonds. Any person who willfully falsifies a report required by this section is guilty  
20 of a Class J felony."

21 Sec. 21. G.S. 58-71-170 reads as rewritten:

22 **"§ 58-71-170. Examinations.**

23 (a) Whenever the Commissioner deems it prudent he shall visit and examine or  
24 cause to be visited and examined by some competent person appointed by him for that  
25 purpose any professional bail bondsman subject to the provisions of this Article. For  
26 this purpose the Commissioner or person making the examination shall have free access  
27 to all books and papers of the bondsman that relate to his business and to the books and  
28 papers kept by any of his agents or runners.

29 (b) The Commissioner may conduct examinations of surety bondsmen under  
30 G.S. 58-2-195 as well as under subsection (a) of this section."

31 Sec. 22. Article 71 of Chapter 58 of the General Statutes is amended by  
32 adding two new subsections to read:

33 **"§ 58-71-167. Portion of bond premium payments deferred.**

34 (a) In any case where the agreement between principal and surety calls for some  
35 portion of the bond premium payments to be deferred or paid after the defendant has  
36 been released from custody, a written memorandum of agreement between the principal  
37 and surety shall be kept on file by the surety with a copy provided to the principal.  
38 Such memorandum shall contain the following information:

39 (1) The amount of the premium payment deferred or not yet paid at the  
40 time the defendant is released from jail.

41 (2) The method and schedule of payment to be made by the defendant to  
42 the bondsman, which shall include the dates of payment and amount to  
43 be paid on each date.

1       (b) Such memorandum must be signed by the defendant and the bondsman, or  
2 one of the bondsman's agents, and dated at the time the agreement is made. Any  
3 subsequent modifications of the memorandum must be in writing, signed, dated, and  
4 kept on file by the surety, with a copy provided to the principal.

5 **"§ 58-71-168. Records to be maintained.**

6       All records related to executing bail bonds, including bail bond registers, monthly  
7 reports, receipts, collateral security agreements, and memoranda of agreements, shall be  
8 kept separate from records of any other business and must be maintained for not less  
9 than three years after the final entry has been made."

10       Sec. 23. G.S. 58-70-65 is amended by adding a new subsection to read:

11       "(c) Each permit holder located outside this State shall deposit in a separate trust  
12 account, designated for its North Carolina creditors, funds to pay all monies due or  
13 owing all collection creditors or forwarders located within this State."

14       Sec. 24. G.S. 131E-211(e) reads as rewritten:

15       "(e) ~~The~~ majority of the Commission members who are present and who are  
16 entitled to vote shall constitute a quorum for the transaction of business."

17       Sec. 25. Article 4 of Chapter 97 of the General Statutes is amended by  
18 adding a new section to read:

19 **"§ 97-143. Use of deposits made by insolvent member self-insurers.**

20       After the Commissioner has notified the Association, pursuant to G.S. 97-136(a),  
21 that a member is insolvent, the Commissioner shall assign and deliver to the  
22 Association, and the Association is authorized to expend, the deposit made by the  
23 insolvent member pursuant to G.S. 97-93(b), to the extent the deposit is needed by the  
24 Association to pay covered claims against the premium taxes owed by the insolvent  
25 member as required by this Article, and to the extent the deposit is needed to pay  
26 expenses of the Association relating to covered claims against the insolvent member.  
27 The Association shall account to the Commissioner and the insolvent member or its  
28 successor for all deposits received from the Commissioner under this section."

29       Sec. 26. G.S. 58-2-40 reads as rewritten:

30 **"§ 58-2-40. Powers and duties of Commissioner.**

31       The Commissioner shall:

- 32       (1) See that all laws of this State that he is statutorily responsible for  
33       administering are faithfully executed; and to that end he shall have  
34       power and authority to make rules in accordance with Chapter 150B of  
35       the General Statutes, to enforce, carry out and make effective the  
36       provisions of those laws. He also has the authority to make such  
37       further rules not contrary to those laws which will prevent persons  
38       subject to his regulatory authority from engaging in practices injurious  
39       to the public.
- 40       (2) Have the power and authority to make and promulgate rules and  
41       regulations pertaining to and governing the solicitation of proxies,  
42       including financial reporting in connection therewith, with respect to  
43       the capital stock or other equity securities of any domestic stock  
44       insurance company.



- 1           (3) ~~Furnish~~Prescribe to the companies, associations, orders or bureaus  
2 required by Articles 1 through 64 of this Chapter to report to him, the  
3 necessary ~~blank~~ forms for the statements required, which forms may  
4 be changed by him from time to time when necessary to secure full  
5 information as to the standing, condition and such other information  
6 desired of companies, associations, orders or bureaus under the  
7 ~~Insurance~~jurisdiction of the Department.
- 8           (4) Receive and thoroughly examine each ~~annual~~financial statement  
9 required by Articles 1 through 64 of this Chapter.
- 10          (5) Report in detail to the Attorney General any violations of the laws  
11 relative to insurance companies, associations, orders and bureaus or  
12 the business of insurance, and he shall have power to institute civil  
13 actions or criminal prosecutions either by the Attorney General or such  
14 other attorney as the Attorney General may select, for any violation of  
15 the provisions of Articles 1 through 64 of this Chapter.
- 16          (6) Upon a proper application by any citizen of this State, give a statement  
17 or synopsis of the provisions of any insurance contract offered or  
18 issued to such citizen.
- 19          (7) Administer by himself or by his deputy all oaths required in the  
20 discharge of his official duty.
- 21          (8) Compile and make available to the public such lists of rates charged,  
22 including deviations, and such explanations of coverages that are  
23 provided by insurers for and in connection with contracts or policies of  
24 (i) insurance against loss to residential real property with not more  
25 than four housing units located in this State and any contents thereof or  
26 valuable interest therein and other insurance coverages written in  
27 connection with the sale of such property insurance and (ii) private  
28 passenger (nonfleet) motor vehicle liability, physical damage, theft,  
29 medical payments, uninsured motorists, and other insurance coverages  
30 written in connection with the sale of such insurance, as may be  
31 advisable to inform the public of insurance premium differentials and  
32 of the nature and types of coverages provided. The explanations of  
33 coverages provided for in this section must comply with the provisions  
34 of Article 38 of this Chapter."

35           Sec. 27. G.S. 58-51-20(a) reads as rewritten:

36           "(a) Every individual or blanket family hospitalization policy and accident and  
37 health policy, other than noncancellable or nonrenewable policies but including group,  
38 blanket and franchise policies, as defined in Articles 1 through 64 of this Chapter,  
39 covering less than 10 persons, issued in North Carolina after January 1, 1956, shall  
40 include in substance the following provision:

41           Renewability: This policy is renewable at the option of the policyholder unless  
42 sufficient notice of nonrenewal is given the policyholder in writing by the insurer.

43           Sufficient notice shall be, during the first year of any policy, or during the first year  
44 following any lapse and reinstatement, a period of 30 days prior to the premium due

1 date. After one continuous year of coverage and acceptance of premium for any portion  
2 of the second or subsequent year sufficient notice shall be a number of full months most  
3 nearly equivalent to one fourth the number of months of continuous coverage from the  
4 ~~first anniversary of the date of issue or reinstatement,~~ inception date of the policy, to the  
5 date of mailing of such notice: Provided no period of required notice shall exceed two  
6 years."

7 Sec. 28. Article 63 of Chapter 58 of the General Statutes is amended by  
8 adding a new section to read:

9 **"§ 58-63-32. Cease and desist order.**

10 (a) If, after a hearing under G.S. 58-63-25, the Commissioner determines that the  
11 method of competition or the act or practice in question is defined in G.S. 58-63-15 and  
12 that the person complained of has engaged in such method of competition, act, or  
13 practice in violation of this Article, he shall reduce his finding to writing and shall issue  
14 and cause to be served upon the person charged with the violation an order requiring  
15 such person to cease and desist from engaging in such method, act, or practice.

16 (b) Until the expiration of the time allowed under G.S.58-63-35(a) for filing a  
17 petition for review, if no such petition has been duly filed within such time, then until  
18 the transcript of the record in the proceeding has been filed in court, the Commissioner  
19 may at any time, upon such notice and in such manner as he considers proper, modify or  
20 set aside in whole or in part any order issued by him under this section.

21 (c) After the expiration of the time allowed for filing a petition for review, if no  
22 such petition has been duly filed within such time, the Commissioner may at any time,  
23 after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole  
24 or in part, any order issued by him under this section, whenever in his opinion  
25 conditions of fact or of law have so changed as to require such action or if the public  
26 interest requires."

27 Sec. 29. G.S. 58-63-30 is repealed.

28 Sec. 30. Article 62 of Chapter 58 of the General Statutes is amended by  
29 adding a new section to read:

30 **"§ 58-62-92. Procedure for appeal to Commissioner from decision of Association.**

31 In any hearing called by the Commissioner for an appeal made pursuant to G.S. 58-  
32 62-90(b), no later than 20 days before such hearing the appellant shall file with the  
33 Commissioner or his designated hearing officer and shall serve on the appellee a written  
34 statement of his case and any evidence he intends to offer at the hearing. No later than  
35 five days before such hearing, the appellee shall file with the Commissioner or his  
36 designated hearing officer and shall serve on the appellant a written statement of his  
37 case and any evidence he intends to offer at the hearing. Each such hearing shall be  
38 recorded and transcribed. The cost of such recording and transcribing shall be borne  
39 equally by the appellant and the appellee; provided that upon any final adjudication the  
40 prevailing party shall be reimbursed for his share of such costs by the other party. Each  
41 party shall be reimbursed for his share of such costs by the other party. Each party  
42 shall, on a date determined by the Commissioner or his designated hearing officer, but  
43 not sooner than 15 days after delivery of the completed transcript to the party, submit to  
44 the Commissioner or his designated hearing officer and serve on the other party, a

1 proposed order. The Commissioner or his designated hearing officer shall then issue an  
2 order."

3 Sec. 31. Article 48 of Chapter 58 of the General Statutes is amended by  
4 adding a new section to read:

5 **"§ 58-48-42. Procedure for appeal to Commissioner from decision of Association.**

6 In any hearing called by the Commissioner for an appeal made pursuant to G.S.58-  
7 48-40(7), no later than 20 days before such hearing the appellant shall file with the  
8 Commissioner or his designated hearing officer and shall serve on the appellee a written  
9 statement of his case and any evidence he intends to offer at the hearing. No later than  
10 five days before such hearing, the appellee shall file with the Commissioner or his  
11 designated hearing officer and shall serve on the appellant a written statement of his  
12 case and any evidence he intends to offer at the hearing. Each such hearing shall be  
13 recorded and transcribed. The cost of such recording and transcribing shall be borne  
14 equally by the appellant and the appellee; provided that upon any final adjudication the  
15 prevailing party shall be reimbursed for his share of such costs by the other party. Each  
16 party shall, on a date determined by the Commissioner or his designated hearing officer,  
17 but not sooner than 15 days after delivery of the completed transcript to the party,  
18 submit to the Commissioner or his designated hearing officer and serve on the other  
19 party, a proposed order. The Commissioner or his designated hearing officer shall then  
20 issue an order."

21 Sec. 32. G.S. 58-7-75 reads as rewritten:

22 **"§ 58-7-75. Amount of capital and/or surplus required; impairment of capital or**  
23 **surplus.**

24 The amount of capital and/or surplus requisite to the formation and organization of  
25 companies under the provisions of Articles 1 through 64 of this Chapter shall be as  
26 follows:

27 (1) Stock Life Insurance Companies.

- 28 a. A stock corporation may be organized in the manner prescribed  
29 in Articles 1 through 64 of this Chapter and licensed to do the  
30 business of life insurance, only when it shall have paid-in  
31 capital of at least six hundred thousand dollars (\$600,000) and a  
32 paid-in initial surplus of at least nine hundred thousand dollars  
33 (\$900,000), and it may in addition do the kind of business  
34 specified in subdivision (2) of G.S. 58-7-15 (annuities), without  
35 having additional capital or surplus. Every such company shall  
36 at all times thereafter maintain a minimum capital of not less  
37 than six hundred thousand dollars (\$600,000) and a minimum  
38 surplus of at least one hundred fifty thousand dollars  
39 (\$150,000). Provided that, any such corporation may do either  
40 or both of the kinds of insurance authorized for stock, accident  
41 and health insurance companies, as set out in paragraphs a and  
42 b of subdivision (3) of G.S. 58-7-15 (accidental death or  
43 personal injury, and noncancelable disability), where its charter  
44 so permits, and when and so long as it meets and maintains a

- 1 minimum capital and surplus equal to the sum of the minimum  
2 capital and surplus requirements of this subdivision (1)a and the  
3 minimum capital and surplus requirements of subdivision (2)a  
4 and/or (2)b hereof as applicable.
- 5 b. If the Commissioner, after such investigation as he may deem it  
6 expedient to make, finds that a corporation may be organized to  
7 do the business of life insurance, or the writing of annuities or  
8 both, that its operations are restricted solely to one state, and  
9 that the organization of such corporation is in the public  
10 interest, he may permit the organization of a stock corporation  
11 to do on such restricted plan either or both kinds of business  
12 specified in subdivisions (1) and (2) of G.S. 58-7-15 (life  
13 insurance and annuities), with the minimum paid-in capital and  
14 a minimum paid-in initial surplus in an amount to be prescribed  
15 by him, but in no event to be less than a paid-in capital of four  
16 hundred thousand dollars (\$400,000) and a paid-in surplus of  
17 six hundred thousand dollars (\$600,000). Every such company  
18 shall at all times thereafter maintain such prescribed minimum  
19 capital, or four hundred thousand dollars (\$400,000), whichever  
20 is greater and a minimum surplus of at least one hundred  
21 thousand dollars (\$100,000).
- 22 (2) Stock Accident and Health Insurance Companies.
- 23 a. A stock corporation may be organized in the manner prescribed  
24 in Articles 1 through 64 of this Chapter and licensed to do only  
25 the kind of insurance specified in subdivision (3)a of G.S. 58-7-  
26 15 (accidental death or personal injury), when it shall have a  
27 paid-in capital of not less than four hundred thousand dollars  
28 (\$400,000), and a paid-in initial surplus of at least six hundred  
29 thousand dollars (\$600,000). Every such company shall at all  
30 times thereafter maintain a minimum capital of not less than  
31 four hundred thousand dollars (\$400,000) and a minimum  
32 surplus of at least one hundred thousand dollars (\$100,000).
- 33 b. Any company organized under the provisions of paragraph a of  
34 this subdivision may, by the provisions of its original charter or  
35 any amendment thereto, acquire the power to do the kind of  
36 business specified in paragraph b of subdivision (3) of G.S. 58-  
37 7-15 (noncancelable disability insurance), if it has a paid-in  
38 capital of at least six hundred thousand dollars (\$600,000) and a  
39 paid-in initial surplus of at least nine hundred thousand dollars  
40 (\$900,000). Every such company shall at all times maintain a  
41 minimum capital of not less than six hundred thousand dollars  
42 (\$600,000) and a minimum surplus of at least one hundred fifty  
43 thousand dollars (\$150,000).

- 1 (3) Stock Fire and Marine Companies. – A stock corporation may be  
2 organized in the manner prescribed in Articles 1 through 64 of this  
3 Chapter and licensed to do one or more of the kinds of insurance  
4 specified in subdivisions (4), (5), (6), (7), (8), (11), (12), (19), (20),  
5 (21) and (22) of G.S. 58-7-15 only when it shall have a paid-in capital  
6 of not less than eight hundred thousand dollars (\$800,000) and a paid-  
7 in initial surplus of not less than one million two hundred thousand  
8 dollars (\$1,200,000). Every such company shall at all times thereafter  
9 maintain a minimum capital of not less than eight hundred thousand  
10 dollars (\$800,000) and a minimum surplus of at least two hundred  
11 thousand dollars (\$200,000). Provided that, any such corporation may  
12 do all the kinds of insurance authorized for casualty, fidelity and surety  
13 companies, as set out in subdivision (4) hereof where its charter so  
14 permits, and when and so long as it meets and thereafter maintains a  
15 minimum capital and surplus equal to the sum of the minimum capital  
16 and surplus requirements of this subdivision (3) and the minimum  
17 capital and surplus requirements of subdivision (4) hereof.
- 18 (4) Stock Casualty and Fidelity and Surety Companies.
- 19 a. A stock corporation may be organized in the manner prescribed  
20 in Articles 1 through 64 of this Chapter and licensed to do one  
21 or more of the kinds of insurance specified in subdivisions (3),  
22 (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17),  
23 (18), (19), (21) and (22) of G.S. 58-7-15 only when it shall have  
24 a paid-in capital of not less than one million dollars  
25 (\$1,000,000) and a paid-in initial surplus of not less than one  
26 million five hundred thousand dollars (\$1,500,000). Every such  
27 company shall at all times thereafter maintain a minimum  
28 capital of not less than one million dollars (\$1,000,000) and a  
29 minimum surplus of at least two hundred fifty thousand dollars  
30 (\$250,000).
- 31 b. If the Commissioner, after such investigation as he may deem it  
32 expedient to make, finds that a corporation may be organized to  
33 do one or more of such kinds of insurance, that its operations  
34 are restricted solely to one state, and that the organization of  
35 such corporation is in the public interest, he may permit such  
36 corporation to be organized and licensed to write the lines set  
37 out in subsection a above with a paid-in capital of not less than  
38 six hundred thousand dollars (\$600,000) and a paid-in initial  
39 surplus of not less than nine hundred thousand dollars  
40 (\$900,000). Every such company shall hereafter maintain a  
41 minimum capital of not less than six hundred thousand dollars  
42 (\$600,000) and a minimum surplus of at least one hundred fifty  
43 thousand dollars (\$150,000). Provided that, any such casualty,  
44 fidelity and surety corporation may do all the kinds of insurance

1 authorized for fire and marine companies, as set out in  
2 subdivision (3) hereof where its charter so permits, when and if  
3 it meets all additional requirements as to capital and surplus as  
4 fixed in said section, and maintains the same.

5 (5) Mutual Fire and Marine Companies.

6 a. Limited assessment companies. – A limited assessment mutual  
7 company may be organized in the manner prescribed in Articles  
8 1 through 64 of this Chapter and licensed to do one or more  
9 kinds of insurance specified in subdivisions (4), (5), (6), (7),  
10 (8), (11), (12), (19), (20), (21) and (22) of G.S. 58-7-15 only  
11 when it has no less than five hundred thousand dollars  
12 (\$500,000) of insurance in not fewer than 500 separate risks  
13 subscribed with a paid-in initial surplus of at least three hundred  
14 thousand dollars (\$300,000), which surplus shall at all times be  
15 maintained. The assessment liability of a policyholder of a  
16 company organized in accordance with the provisions of this  
17 paragraph shall not be limited to less than five annual premiums  
18 provided, such limited assessment company may reduce the  
19 assessment liability of its policyholders from five annual  
20 premiums as set out herein to one additional annual premium  
21 when the free surplus of such company amounts to not less than  
22 three hundred thousand dollars (\$300,000), which surplus shall  
23 at all times be maintained.

24 b. Assessable mutual companies. – An assessable mutual company  
25 may be organized in the manner prescribed in Articles 1  
26 through 64 of this Chapter and licensed to do one or more of the  
27 kinds of insurance specified in subdivisions (4), (5) and (6) of  
28 G.S. 58-7-15 (fire, miscellaneous property and water damage),  
29 with an unlimited assessment liability of its policyholders only  
30 when it shall have not less than five hundred thousand dollars  
31 (\$500,000) of insurance in not fewer than 500 separate risks  
32 subscribed with a paid-in initial surplus equal to twice the  
33 amount of the maximum net retained liability under the largest  
34 policy of insurance issued by such company; but not less than  
35 sixty thousand dollars (\$60,000) which surplus shall at all times  
36 be maintained. Provided such company, when its charter so  
37 permits, in addition may be licensed to do one or more of the  
38 kinds of insurance specified in subdivisions (7), (8), (11), (12),  
39 (19), (20), (21) and (22) of G.S. 58-7-15, with an unlimited  
40 assessment liability of its policyholders, when its free surplus  
41 amounts to not less than sixty thousand dollars (\$60,000),  
42 which surplus shall at all times be maintained.

43 c. Nonassessable mutual companies. – A nonassessable mutual  
44 company may be organized in the manner prescribed in Articles

1 through 64 of this Chapter and licensed to do one or more of the kinds of insurance specified in subdivisions (4), (5), (6), (7), (8), (11), (12), (19), (20), (21) and (22) of G.S. 58-7-15 and may be authorized to issue policies under the terms of which a policyholder is not liable for any assessments in addition to the premium set out in the policy only when it shall have not less than five hundred thousand dollars (\$500,000) of insurance in not fewer than 500 separate risks subscribed with a paid-in initial surplus of not less than eight hundred thousand dollars (\$800,000), which surplus shall at all times be maintained.

- d. Town or county mutual insurance companies. – A town or county mutual insurance company with unlimited assessment liability may be organized in the manner prescribed in Articles 1 through 64 of this Chapter and licensed to do the kinds of insurance specified in ~~subdivision (4) of G.S. 58-7-15 (fire)~~ G.S. 58-7-15(4) only when it shall have not less than fifty thousand dollars (\$50,000) of insurance in force in not fewer than 50 separate risks subscribed with a paid-in initial surplus of not less than fifteen thousand dollars (\$15,000), which surplus shall at all times be maintained. A town or county mutual insurance company may, in addition to writing the business specified in ~~subdivision (4) of G.S. 58-7-15 (fire insurance)~~, G.S. 58-7-15(4) cover in the same policy the hazards usually insured against under an extended coverage endorsement when such company has not less than five hundred thousand dollars (\$500,000) of insurance in force in not fewer than 500 separate risks and maintains a surplus at all times of not less than one hundred twenty thousand dollars (\$120,000); and at all times maintains in addition to the surplus hereinbefore required, an additional surplus of not less than twenty five thousand dollars (\$25,000) or not less than an amount equivalent to one percent (1%) of the total amount of net retained insurance in force, whichever is the larger sum: Provided, that such company may not operate in more than six adjacent counties in this State. Any company authorized under this section prior to July 1, 1991, shall be permitted to continue to do the same kinds of business that it was authorized to do prior to July 1, 1991, without being required to increase its surplus; provided further, however, such insurer shall increase its surplus to the required amounts on or before July 1, 1992. The requirements of this sub-subdivision as to surplus shall apply to such companies as a prerequisite to writing additional lines of business, and to such companies as a prerequisite to commencing business if unlicensed prior to July 1, 1991.

- 1           (6) Mutual Life, Accident and Health Insurance Companies. – A  
2 nonassessable mutual insurance company may be organized in the  
3 manner prescribed in Articles 1 through 64 of this Chapter, and  
4 licensed to do only one or more of the kinds of insurance specified in  
5 subdivisions (1), (2) and (3) of G.S. 58-7-15 (life, annuities, and  
6 accident and health) when it has complied with the requirements of  
7 Articles 1 through 64 of this Chapter and with those hereinafter set  
8 forth in paragraphs a to d of this subdivision, inclusive, whichever  
9 shall be applicable.
- 10           a. If organized to do only the kinds of insurance specified in  
11 subdivisions (1) and (2) of G.S. 58-7-15 (life insurance and  
12 annuities), such company shall have not less than 500 bona fide  
13 applications for life insurance in an aggregate amount not less  
14 than five hundred thousand dollars (\$500,000), and shall have  
15 received from each such applicant in cash the full amount of  
16 one annual premium on the policy applied for by him, in an  
17 aggregate amount at least equal to ten thousand dollars  
18 (\$10,000), and shall in addition have a paid-in initial surplus of  
19 two hundred thousand dollars (\$200,000), and shall have and  
20 maintain at all times a minimum surplus of one hundred  
21 thousand dollars (\$100,000).
- 22           b. If organized to do only the kind of insurance specified in  
23 paragraph a of subdivision (3) of G.S. 58-7-15 (accidental death  
24 and personal injury), such company shall have not less than 250  
25 bona fide applications for such insurance, and shall have  
26 received from each such applicant in cash the full amount of  
27 one annual premium on the policy applied for by him in an  
28 aggregate amount of at least ten thousand dollars (\$10,000), and  
29 shall have a paid-in initial surplus of two hundred thousand  
30 dollars (\$200,000) and shall have and maintain at all times a  
31 minimum surplus of one hundred thousand dollars (\$100,000).
- 32           c. If organized to do the kinds of insurance specified in  
33 subdivision (1) and in paragraph a of subdivision (3) of G.S. 58-  
34 7-15 (life insurance and accidental death and injury), such  
35 company shall have complied with the provisions of both  
36 paragraphs a and b hereof.
- 37           d. If organized to do the kind of insurance specified in paragraph b  
38 of subdivision (3) of G.S. 58-7-15 (noncancelable disability  
39 insurance), in addition to the kind or kinds of insurance  
40 designated in any one of the foregoing paragraphs of this  
41 subdivision, such company shall have a paid-in initial surplus of  
42 at least five hundred thousand dollars (\$500,000) and shall  
43 maintain a minimum surplus of at least three hundred thousand  
44 dollars (\$300,000).



- 1           (7)    Organization of Mutual Casualty, Fidelity and Surety Companies.  
2           a.     Nonassessable, mutual companies. – A mutual insurance  
3           company with no assessment liability provided for its  
4           policyholders may be organized in the manner prescribed in  
5           Articles 1 through 64 of this Chapter and licensed to do one or  
6           more of the kinds of insurance specified in subdivisions (3), (6),  
7           (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18),  
8           (19), (21) and (22) of G.S. 58-7-15 when it has a minimum  
9           paid-in initial surplus of one million dollars (\$1,000,000) and  
10          not less than five hundred thousand dollars (\$500,000) in  
11          insurance subscribed in not less than 500 separate risks. The  
12          surplus of such company shall at all times be maintained at or  
13          above the amount required hereinabove for organization of such  
14          company.  
15          b.     Assessable mutual companies. – A mutual insurance company  
16          with assessment liability provided for its policyholders may be  
17          organized in the manner prescribed in Articles 1 through 64 of  
18          this Chapter and licensed to do one or more of the kinds of  
19          insurance specified in subdivisions (3), (6), (7), (8), (9), (10),  
20          (11), (12), (13), (14), (15), (16), (17), (18), (19), (21) and (22)  
21          of G.S. 58-7-15 when it has a minimum paid-in initial surplus  
22          of four hundred thousand dollars (\$400,000) and not less than  
23          five hundred thousand dollars (\$500,000) of insurance  
24          subscribed in not less than 500 separate risks. Such company  
25          shall at all times maintain a surplus in an amount not less than  
26          four hundred thousand dollars (\$400,000). The assessment  
27          liability of a policyholder of such company shall not be limited  
28          to less than one annual premium.
- 29          (8)    Organization of Mutual Multiple Line Companies.  
30          a.     Assessable mutual companies. – A company may do all the  
31          kinds of insurance authorized to be done by a company  
32          organized under the provisions of paragraph a of subdivision (5)  
33          hereof (limited assessment mutual fire and marine companies),  
34          and paragraph b of subdivision (7) hereof (assessable mutual  
35          casualty, fidelity and surety companies), where its charter so  
36          permits when and if it meets the combined minimum  
37          requirements of said paragraphs. The assessment liability of  
38          policyholders of such a company shall not be limited to less  
39          than one annual premium within any one policy year.  
40          b.     Nonassessable mutual companies. – A company may do all the  
41          kinds of insurance authorized to be done by a company  
42          organized under the provisions of paragraph c of subdivision (5)  
43          hereof (nonassessable mutual fire and marine companies), and  
44          paragraph a of subdivision (7) hereof (nonassessable mutual

casualty, fidelity and surety companies), where its charter so permits when and if it meets the combined minimum requirements of said paragraphs. The policyholders of such a company shall not be subject to any assessment liability.

(9) ~~Time for Compliance.—Any domestic, foreign or alien company licensed to do business in North Carolina prior to July 1, 1979, shall be permitted to continue to do the same kinds of business which it was authorized to do on such date without being required to increase its capital and/or surplus, provided however, such insurers shall increase the capital and surplus requirements to the amounts set forth in this section G.S. 58-7-75 on or before July 1, 1987, but the requirements of this section as to capital and surplus shall apply to such companies as a prerequisite to writing additional lines of business, and to such companies as a prerequisite to commencing business if unlicensed prior to July 1, 1979.~~

(10) Impairment of Capital and/or Surplus. – Whenever the Commissioner finds from a financial statement made by any such company, or from a report of examination of any such company, that its admitted assets are less than the aggregate amount of its liabilities and its outstanding capital stock and/or required minimum surplus, he shall determine the amount of such impairment of capital and/or surplus and issue an order in writing requiring the company to eliminate the impairment within such period of not more than 90 days as he shall designate. The Commissioner may, by order served upon the company, prohibit the company from issuing any new policies while such impairment exists. If at the expiration of the designated period the company has not satisfied the Commissioner that the impairment has been eliminated, an order for the rehabilitation or liquidation of the company may be entered as provided in Article 17A, Chapter 58 of the General Statutes of North Carolina."

Sec. 33. G.S. 58-42-55 is repealed.

Sec. 34. G.S. 143-143.13(a) reads as rewritten:

"(a) A license may be denied, suspended or revoked by the Board on any one or more of the following grounds:

- (1) Material misstatement in application for license;
- (2) Failure to post an adequate corporate surety bond, cash bond or fixed value equivalent thereof;
- (3) Engaging in the business of manufactured home manufacturer, dealer, salesman or set-up contractor without first obtaining a license from the Board;
- (4) Failure to comply with the warranty service obligations and claims procedure established by this Article;
- (5) Failure to comply with the set-up and tie-down requirements established by this Article;

- 1 (6) Having knowingly failed or refused to account for or to pay over  
 2 moneys or other valuables belonging to others which have come into  
 3 licensee's possession arising out of the sale of manufactured homes;  
 4 (7) Use of unfair methods of competition or unfair or deceptive  
 5 commercial acts or practices;  
 6 (8) Failure to comply with any provision of this Article;  
 7 (9) Failure to appear before the Board upon due notice or to follow  
 8 directives of the Board issued pursuant to this Article;  
 9 (10) Employing unlicensed retail salesmen;  
 10 (11) Knowingly offering for sale the products of manufacturers who are not  
 11 licensed pursuant to this Article or selling, to dealers not licensed  
 12 pursuant to this Article, manufactured homes which are to be sold in  
 13 this State to buyers as defined in this Article;  
 14 (12) Conviction of a felony or any crime involving moral turpitude;  
 15 (13) Having had a license revoked, suspended or denied by the Board under  
 16 this Article; or having had a license revoked, suspended or denied by a  
 17 similar entity in another state; or engaging in conduct in another state  
 18 which conduct, if committed in this State, would have been a violation  
 19 under this ~~Article~~-Article;  
 20 (14) Knowingly engaging any person to perform set-up operations who is  
 21 not licensed by the Board as a set-up contractor."

22 Sec. 35. G.S. 143-143.11(a) reads as rewritten:

23 "(a) It shall be unlawful for any manufactured home manufacturer, dealer,  
 24 salesman or set-up contractor to engage in business as such in this State without first  
 25 obtaining a license from the ~~North Carolina Manufactured Housing Board~~, as provided  
 26 in this Article. The fact that a person is licensed by the Board as a set-up contractor or a  
 27 dealer does not preempt any other license boards' applicable requirements for that  
 28 person."

29 Sec. 36. Article 9A of Chapter 143 of the General Statutes is amended by  
 30 adding a new section to read:

31 "**§ 143-143.25. Staff support for Board.**

32 The Manufactured Housing Division of the Department shall provide clerical and  
 33 other staff services required by the Board; and shall administer and enforce all  
 34 provisions of this Article and all rules adopted under this Article, subject to the direction  
 35 of the Board; except for powers and duties delegated by this Article to local units of  
 36 government, other State agencies, or to any persons."

37 Sec. 37. G.S. 58-63-15 reads as rewritten:

38 "**§ 58-63-15. Unfair methods of competition and unfair or deceptive acts or**  
 39 **practices defined.**

40 The following are hereby defined as unfair methods of competition and unfair and  
 41 deceptive acts or practices in the business of insurance:

- 42 (1) Misrepresentations and False Advertising of Policy Contracts. –  
 43 Making, issuing, circulating, or causing to be made, issued or  
 44 circulated, any estimate, illustration, circular or statement

1 misrepresenting the terms of any policy issued or to be issued or the  
2 benefits or advantages promised thereby or the dividends or share of  
3 the surplus to be received thereon, or making any false or misleading  
4 statement as to the dividends or share or surplus previously paid on  
5 similar policies, or making any misleading representation or any  
6 misrepresentation as to the financial condition of any insurer, or as to  
7 the legal reserve system upon which any life insurer operates, or using  
8 any name or title of any policy or class of policies misrepresenting the  
9 true nature thereof, or making any misrepresentation to any  
10 policyholder insured in any company for the purpose of inducing or  
11 tending to induce such policyholder to lapse, forfeit, or surrender his  
12 insurance.

13 (2) False Information and Advertising Generally. – Making, publishing,  
14 disseminating, circulating, or placing before the public, or causing,  
15 directly or indirectly, to be made, published, disseminated, circulated,  
16 or placed before the public, in a newspaper, magazine or other  
17 publication, or in the form of a notice, circular, pamphlet, letter or  
18 poster, or over any radio station, or in any other way, an  
19 advertisement, announcement or statement containing any assertion,  
20 representation or statement with respect to the business of insurance or  
21 with respect to any person in the conduct of his insurance business,  
22 which is untrue, deceptive or misleading.

23 (3) Defamation. – Making, publishing, disseminating, or circulating,  
24 directly or indirectly, or aiding, abetting or encouraging the making,  
25 publishing, disseminating or circulating of any oral or written  
26 statement or any pamphlet, circular, article or literature which is false,  
27 or maliciously critical of or derogatory to the financial condition of an  
28 insurer, and which is calculated to injure any person engaged in the  
29 business of insurance.

30 (4) Boycott, Coercion and Intimidation. – Entering into any agreement to  
31 commit, or by any concerted action committing, any act of boycott,  
32 coercion or intimidation resulting in or tending to result in  
33 unreasonable restraint of, or monopoly in, the business of insurance.

34 (5) False Financial Statements. – Filing with any supervisory or other  
35 public official, or making, publishing, disseminating, circulating or  
36 delivering to any person, or placing before the public, or causing  
37 directly or indirectly, to be made, published, disseminated, circulated,  
38 delivered to any person, or placed before the public, any false  
39 statement of financial condition of an insurer with intent to deceive.

40 Making any false entry in any book, report or statement of any  
41 insurer with intent to deceive any agent or examiner lawfully  
42 appointed to examine into its condition or into any of its affairs, or any  
43 public official to whom such insurer is required by law to report, or  
44 who has authority by law to examine into its condition or into any of

1 its affairs, or, with like intent, willfully omitting to make a true entry  
2 of any material fact pertaining to the business of such insurer in any  
3 book, report or statement of such insurer.

- 4 (6) Stock Operations and Insurance Company Advisory Board Contracts.  
5 – Issuing or delivering or permitting agents, officers, or employees to  
6 issue or deliver, agency company stock or other capital stock, or  
7 benefit certificates or shares in any common-law corporation, or  
8 securities or any special or any insurance company advisory board  
9 contracts or other contracts of any kind promising returns and profit as  
10 an inducement to insurance.

- 11 (7) Unfair Discrimination.

12 a. Making or permitting any unfair discrimination between  
13 individuals of the same class and equal expectation of life in the  
14 rates charged for any contract of life insurance or of life annuity  
15 or in the dividends or other benefits payable thereon, or in any  
16 other of the terms and conditions of such contract.

17 b. Making or permitting any unfair discrimination between  
18 individuals of the same class and of essentially the same hazard  
19 in the amount of premium, policy fees, or rates charged for any  
20 policy or contract of accident or health insurance or in the  
21 benefits payable thereunder, or in any of the terms or conditions  
22 of such contract, or in any other manner whatever.

23 c. Making or permitting any unfair discrimination between or  
24 among individuals or risks of the same class and of essentially  
25 the same hazard by refusing to issue, refusing to renew,  
26 cancelling, or limiting the amount of insurance coverage on a  
27 property or casualty risk because of the geographic location of  
28 the risk, unless:

29 1. The refusal or limitation is for the purpose of preserving  
30 the solvency of the insurer and is not a mere pretext for  
31 unfair discrimination, or

32 2. The refusal, cancellation, or limitation is required by  
33 law.

34 d. Making or permitting any unfair discrimination between or  
35 among individuals or risks of the same class and of essentially  
36 the same hazard by refusing to issue, refusing to renew,  
37 cancelling, or limiting the amount of insurance coverage on a  
38 residential property risk, or the personal property contained  
39 therein, because of the age of the residential property, unless:

40 1. The refusal or limitation is for the purpose of preserving  
41 the solvency of the insurer and is not a mere pretext for  
42 unfair discrimination, or

43 2. The refusal, cancellation, or limitation is required by  
44 law.

1 (8) Rebates.

2 a. Except as otherwise expressly provided by law, knowingly  
3 permitting or offering to make or making any contract of life  
4 insurance, life annuity or accident and health insurance, or  
5 agreement as to such contract other than as plainly expressed in  
6 the contract issued thereon, or paying or allowing, or giving or  
7 offering to pay, allow, or give, directly or indirectly, as  
8 inducement to such insurance, or annuity, any rebate of  
9 premiums payable on the contract, or any special favor or  
10 advantage in the dividends or other benefits thereon, or any  
11 valuable consideration or inducement whatever not specified in  
12 the contract; or giving, or selling, or purchasing or offering to  
13 give, sell, or purchase as inducement to such insurance or  
14 annuity or in connection therewith, any stocks, bonds, or other  
15 securities of any insurance company or other corporation,  
16 association, or partnership, or any dividends or profits accrued  
17 thereon, or anything of value whatsoever not specified in the  
18 contract.

19 b. Nothing in subdivision (7) or paragraph a of subdivision (8) of  
20 this section shall be construed as including within the definition  
21 of discrimination or rebates any of the following practices:

22 1. In the case of any contract of life insurance or life  
23 annuity, paying bonuses to policyholders or otherwise  
24 abating their premiums in whole or in part out of surplus  
25 accumulated from nonparticipating insurance, provided,  
26 that any such bonuses or abatement of premiums shall be  
27 fair and equitable to policyholders and for the best  
28 interests of the company and its policyholders;

29 2. In the case of life insurance policies issued on the  
30 industrial debit plan, making allowance to policyholders  
31 who have continuously for a specified period made  
32 premium payments directly to an office of the insurer in  
33 an amount which fairly represents the saving in  
34 collection expense;

35 3. Readjustment of the rate of premium for a group  
36 insurance policy based on the loss or expense  
37 experienced thereunder, at the end of the first or any  
38 subsequent policy year of insurance thereunder, which  
39 may be made retroactive only for such policy year.

40 c. No insurer or employee thereof, and no broker or agent shall  
41 pay, allow, or give, or offer to pay, allow, or give, directly or  
42 indirectly, as an inducement to insurance, or after insurance has  
43 been effected, any rebate, discount, abatement, credit or  
44 reduction of the premium named in a policy of insurance, or

1 any special favor or advantage in the dividends or other benefits  
2 to accrue thereon, or any valuable consideration or inducement  
3 whatever, not specified in the policy of insurance. Nothing  
4 herein contained shall be construed as prohibiting the payment  
5 of commissions or other compensation to regularly appointed  
6 and licensed agents and to brokers duly licensed by this State;  
7 nor as prohibiting any participating insurer from distributing to  
8 its policyholders dividends, savings or the unused or  
9 unabsorbed portion of premiums and premium deposits.

- 10 (9) Advertising of Health, Accident or Hospitalization Insurance. – In all  
11 advertising of policies, certificates or service plans of health, accident  
12 or hospitalization insurance, except those providing group coverage,  
13 where details of benefits provided by a particular policy, certificate or  
14 plan are set forth in any advertising material, such advertising material  
15 shall contain reference to the major exceptions or major clauses  
16 limiting or voiding liability contained in the policy, certificate or plan  
17 so advertised. The references to such exceptions or clauses shall be  
18 printed in a type no smaller than that used to set forth the benefits of  
19 the policy, certificate or plan. In all advertising of such policies,  
20 certificates or plans which contain a cancellation provision or a  
21 provision that the policies, certificates or plans may be renewed at the  
22 option of the company or medical service corporation only, such  
23 advertising material shall contain clear and definite reference to the  
24 fact that the policies, certificates or plans are cancellable or that the  
25 same may be renewed at the option of the company only.

26 In advertising, sale, or solicitation for sale of any insurance policy  
27 represented or advertised to afford coverages and benefits  
28 supplemental to or in addition to Medicare coverage, all such  
29 advertising materials, except for advertisements which have as their  
30 objective the creation of a desire to inquire further about an insurance  
31 product and do nothing more than generally describe the product and  
32 invite inquiries for costs and further details of the coverage, including  
33 limitations, exclusions, reductions or limitations and terms under  
34 which the policy may be continued in force, in whatever medium, and  
35 all solicitation and presentations for the sale of such policies, shall  
36 contain specific references to major exclusions or major exceptions  
37 that may result in voiding liability or in a reduction of benefits below  
38 those primarily advertised. When such policies contain a coordination  
39 of benefits clause whereby benefits are limited by or prorated with  
40 other outstanding coverages, such provision shall be called to the  
41 attention of the prospective purchaser by conspicuously printed type  
42 no smaller than 10 point type. When such policies are advertised to  
43 provide coverage above Medicare payments, but contain provisions  
44 limiting benefits to those approved for payment by Medicare under

1 Part B, such limitation in benefits shall be called to the attention of the  
2 prospective purchaser regardless of the advertising medium; and when  
3 policies containing such provisions are delivered, there shall be  
4 incorporated therein the language or affixed thereto a sticker in  
5 conspicuously printed type no smaller than 10 point type stating:  
6 CAUTION: POLICY BENEFITS ARE LIMITED TO THOSE  
7 APPROVED BY MEDICARE FOR PAYMENT. Any person  
8 engaged in the solicitation or sale of such supplemental Medicare  
9 policies in this State shall, as a part of the application, determine and  
10 list on the application all policies of Medicare supplement or other  
11 health insurance currently in force that cover the prospective insured.  
12 In compiling such information, the person is entitled to rely upon  
13 information furnished by the prospective purchaser or insured.

14 (10) Soliciting, etc., Unauthorized Insurance Contracts in Other States. –  
15 Soliciting, advertising or entering into insurance contracts in foreign  
16 states and any other jurisdiction in which such domestic insurer is not  
17 licensed in accordance with the laws of such state or jurisdiction,  
18 except as provided in G.S. 58-14-5.

19 (11) Unfair Claim Settlement Practices. – Committing or performing with  
20 such frequency as to indicate a general business practice of any of the  
21 following: Provided, however, that no violation of this subsection shall  
22 of itself create any cause of action in favor of any person other than the  
23 Commissioner:

- 24 a. Misrepresenting pertinent facts or insurance policy provisions  
25 relating to coverages at issue;
- 26 b. Failing to acknowledge and act reasonably promptly upon  
27 communications with respect to claims arising under insurance  
28 policies;
- 29 c. Failing to adopt and implement reasonable standards for the  
30 prompt investigation of claims arising under insurance policies;
- 31 d. Refusing to pay claims without conducting a reasonable  
32 investigation based upon all available information;
- 33 e. Failing to affirm or deny coverage of claims within a reasonable  
34 time after proof-of-loss statements have been completed;
- 35 f. Not attempting in good faith to effectuate prompt, fair and  
36 equitable settlements of claims in which liability has become  
37 reasonably clear;
- 38 g. Compelling [the] insured to institute litigation to recover  
39 amounts due under an insurance policy by offering substantially  
40 less than the amounts ultimately recovered in actions brought  
41 by such insured;
- 42 h. Attempting to settle a claim for less than the amount to which a  
43 reasonable man would have believed he was entitled;



- 1 i. Attempting to settle claims on the basis of an application which  
2 was altered without notice to, or knowledge or consent of, the  
3 insured;
- 4 j. Making claims payments to insureds or beneficiaries not  
5 accompanied by [a] statement setting forth the coverage under  
6 which the payments are being made;
- 7 k. Making known to insureds or claimants a policy of appealing  
8 from arbitration awards in favor of insureds or claimants for the  
9 purpose of compelling them to accept settlements or  
10 compromises less than the amount awarded in arbitration;
- 11 l. Delaying the investigation or payment of claims by requiring an  
12 insured claimant, or the physician, of [or] either, to submit a  
13 preliminary claim report and then requiring the subsequent  
14 submission of formal proof-of-loss forms, both of which  
15 submissions contain substantially the same information;
- 16 m. Failing to promptly settle claims where liability has become  
17 reasonably clear, under one portion of the insurance policy  
18 coverage in order to influence settlements under other portions  
19 of the insurance policy coverage; and
- 20 n. Failing to promptly provide a reasonable explanation of the  
21 basis in the insurance policy in relation to the facts or applicable  
22 law for denial of a claim or for the offer of a compromise  
23 settlement.
- 24 (12) Misuse of Borrowers' Confidential Information. – Soliciting,  
25 accepting, or using any information from a lender concerning policies  
26 of insurance held by such lender as a mortgagee of real property,  
27 except from a lender who is an insurer where the loan has been made  
28 by or sold or held for sale to such insurer. Provided, however, this  
29 subdivision shall not apply to the use of such information by a lender  
30 for the solicitation of life or accident and health insurance.
- 31 (13) Overinsurance in Credit or Loan Transactions. – In connection with a  
32 loan or extension of credit secured by real or personal property or both,  
33 requiring the applicant to procure property and casualty insurance  
34 against any one risk which results in coverage which exceeds the  
35 replacement value of the secured property at the time of the loan or  
36 extension of credit. In connection with a secured or unsecured loan or  
37 extension of credit, requiring the applicant to procure life or health  
38 insurance against any one risk which exceeds the amount of the loan.  
39 In connection with a loan secured by both real and personal property,  
40 requiring credit property insurance, as defined in G.S. 58-57-90, on the  
41 personal property. For the purposes of this subsection "amount of  
42 loan" shall be deemed to be the amount of principal and accrued  
43 interest to be paid by the debtor including other allowable charges.

- 1           (14) Notice of Claim Settlement Payments. – Upon payment of five  
2           thousand dollars (\$5,000) or more in settlement of any third party  
3           liability claim and where the claimant is a natural person, the failure of  
4           the insurer to cause written notice to be mailed to the claimant at the  
5           same time payment by draft, check, or otherwise is made by the  
6           insurer or its representative, including the insurer's attorney, to the  
7           claimant's attorney or other representative of the claimant. Nothing in  
8           this subsection creates a cause of action for any person, other than the  
9           Department, against the insurer or its representative based upon a  
10          failure to serve such notice, or the defective service of such notice.  
11          Nothing in this subsection establishes a defense for any party to any  
12          cause of action based upon a failure by the insurer or its representative  
13          to serve such notice, or the defective service of such notice."  
14          Sec. 38. This act is effective upon ratification.