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Short Title: Health and Other Insurance Law Changes.-AB

(Public)

Sponsors:

Referred to:

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES IN THE LAWS GOVERNING HEALTH INSURANCE AND MANAGED CARE; TO CHANGE CERTAIN HEALTH INSURANCE LAWS TO COMPORT WITH RECENT CONGRESSIONAL ENACTMENTS; TO MAKE A TECHNICAL CORRECTION IN A CREDIT INSURANCE LAW; TO CONFORM MOTOR VEHICLE INSPECTION COMPLIANCE REQUIREMENT WITH DISCONTINUATION OF STICKERS; AND TO REPEAL THE EXPIRATION DATE OF THE INTERSTATE INSURANCE PRODUCT REGULATION COMPACT ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 58-51-17(a)(1)a. and b. read as rewritten:

"§ 58-51-17. **Portability for accident and health insurance.**

(a) Rules Relating to Crediting Previous Coverage.

(1) Creditable coverage defined. – For the purposes of this section, "creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

a. ~~A self-funded employer group health plan under the Employee Retirement Income Security Act of 1974.~~ group health plan as defined in G.S. 58-68-25(a)(4b).

b. ~~Group or individual health insurance coverage.~~ Health insurance coverage without regard to whether the coverage is offered in the group market, the individual market, or otherwise."

**SECTION 2.** G.S. 58-68-25(a) is amended by adding the following new subdivisions to read:

"§ 58-68-25. **Definitions; exempted benefits; employer size rule.**

(a) Definitions. – In addition to other definitions throughout this Article, the following definitions and their cognates apply in this Article:

...

(4a) 'Group health insurance coverage'. – Health insurance coverage offered in connection with a group health plan.

(4b) 'Group health plan'. – The meaning given the term under 45 C.F.R. § 146.145(a).

(4c) 'Group market'. – The market for health insurance coverage offered in connection with a group health plan.

...."



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**SECTION 3.** G.S. 58-68-25(a)(5) reads as rewritten:

"(5) "Health insurance coverage" or "coverage" or "health insurance plan" or "plan". – Benefits consisting of medical care, provided directly through insurance or otherwise and including items and services paid for as medical care, under any accident and health insurance policy or certificate, hospital or medical service plan contract, or health maintenance organization contract, written by a health insurer. Health insurance coverage includes group health insurance coverage and individual health insurance coverage."

**SECTION 4.** G.S. 58-68-30(c)(1) reads as rewritten:

"(c) Rules Relating to Crediting Previous Coverage. –

(1) Creditable coverage defined. – For the purposes of this Article, "creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

- a. ~~A self funded employer group health plan under the Employee Retirement Income Security Act of 1974.~~ group health plan.
- b. ~~Group or individual health insurance coverage.~~ Health insurance coverage without regard to whether the coverage is offered in the group market, the individual market, or otherwise.
- c. Part A or part B of title XVIII of the Social Security Act.
- d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.
- e. Chapter 55 of title 10, United States Code.
- f. A medical care program of the Indian Health Service or of a tribal organization.
- g. A State health benefits risk pool.
- h. A health plan offered under chapter 89 of title 5, United States Code.
- i. A public health plan (as defined in federal regulations).
- j. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. § 2504(e)).
- k. Title XXI of the Social Security Act (State Children's Health Insurance Program).

"Creditable coverage" does not include coverage consisting solely of coverage of excepted benefits. However, short-term limited-duration health insurance coverage shall be considered creditable coverage for purposes of ~~this section and G.S. 58-51-15(a)(2)b.~~ section."

**SECTION 5.** G.S. 58-68-60(b)(1) reads as rewritten:

"(b) Eligible Individual Defined. – In this Part, "eligible individual" means an individual:

(1) (i) For whom, as of the date on which the individual seeks coverage under this section, the aggregate of the periods of creditable coverage is 18 or more months and (ii) whose most recent prior creditable coverage was under ~~an ERISA~~ a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);

...."

**SECTION 6.** G.S. 58-65-2 is amended by adding two new statutory references to read:

"§ 58-65-2. **Other laws applicable to service corporations.**

The following provisions of this Chapter are applicable to service corporations that are subject to this Article:

...

- G.S. 58-51-15(a)(2)b.      Accident and health policy provisions.
- G.S. 58-51-17              Portability for accident and health insurance."

1           **SECTION 7.** G.S. 58-67-171 is amended by adding two new statutory references  
2 to read:

3 **"§ 58-67-171. Other laws applicable to HMOs.**

4           The following provisions of this Chapter are applicable to HMOs that are subject to this  
5 Article:

6 ...

7 G.S. 58-51-15(a)(2)b.        Accident and health policy provisions.

8 G.S. 58-51-17                Portability for accident and health insurance."

9           **SECTION 8.** G.S. 58-51-15 is amended by adding the following new subsection to  
10 read:

11        "(i) Applicability. – This section applies to all accident and health insurance policies  
12 delivered or issued for delivery in this State, including certificates issued under group policies  
13 that are delivered or issued for delivery in this State. This section also applies to certificates  
14 issued under a policy issued and delivered to a trust or association outside this State and  
15 covering persons residing in this State."

16           **SECTION 9.** G.S. 58-51-17 is amended by adding the following new subsection to  
17 read:

18        "(d) Applicability. – This section applies to all health benefit plans of individual health  
19 insurance coverage delivered or issued for delivery in this State, including certificates issued  
20 under group policies that are delivered or issued for delivery in this State. This section also  
21 applies to certificates issued under a policy issued and delivered to a trust or association outside  
22 this State and covering persons residing in this State."

23           **SECTION 10.** G.S. 58-51-17(b) reads as rewritten:

24 **"§ 58-51-17. Portability for accident and health insurance.**

25 ...

26        (b) Exceptions.

27           (1) Exclusion not applicable to certain newborns. – Subject to subdivision (3) of  
28 this subsection, an individual health insurer shall not impose any preexisting  
29 condition exclusion in the case of an individual who, as of the last day of the  
30 30-day period beginning with the individual's date of birth, is covered under  
31 creditable coverage.

32           (2) Exclusion not applicable to certain adopted children. – Subject to  
33 subdivision (3) of this subsection, ~~a group an individual~~ health insurer shall  
34 not impose any preexisting condition exclusion in the case of a child who is  
35 adopted or placed for adoption before attaining 18 years of age and who, as  
36 of the last day of the 30-day period beginning on the date of the adoption or  
37 placement for adoption, is covered under creditable coverage. The previous  
38 sentence does not apply to coverage before the date of the adoption or  
39 placement for adoption.

40           (3) Loss if break in coverage. – Subdivisions (1) and (2) of this subsection shall  
41 no longer apply to an individual after the end of the first 63-day period  
42 during all of which the individual was not covered under any creditable  
43 coverage."

44           **SECTION 11.** G.S. 58-54-45(a) reads as rewritten:

45 **"§ 58-54-45. By reason of disability.**

46        (a) In addition to any rule adopted under this Article that is directly or indirectly related  
47 to open enrollment, an insurer shall at least make standardized Medicare Supplement ~~Plans A,~~  
48 ~~C, and J~~ Plan A available to persons eligible for Medicare by reason of disability before age ~~65.~~  
49 65 and also standardized Plan C or F if marketing either Plan to persons eligible for Medicare  
50 due to age. This action shall be taken without regard to medical condition, claims experience,  
51 or health status. To be eligible, a person must submit an application during the six-month

1 period beginning with the first month the person first enrolls in Medicare Part B. For those  
2 persons that are retroactively enrolled in Medicare Part B due to a retroactive eligibility  
3 decision made by the Social Security Administration, the application must be submitted within  
4 a six-month period beginning with the month in which the person receives notification of the  
5 retroactive eligibility decision."

6 **SECTION 12.** G.S. 58-56-26(c) reads as rewritten:

7 "(c) In cases where a TPA administers benefits for more than 100 certificate holders on  
8 behalf of an insurer, the insurer shall, at least semiannually, conduct a review of the operations  
9 of the TPA. At least one semiannual review shall be an on-site audit of the operations of the  
10 TPA. On July 1, 2010, and annually thereafter, every insurer shall file with the Commissioner a  
11 certification of completion of the audits as required by this subsection and performed during the  
12 previous calendar year, in the format, content, and manner as specified by the Commissioner.  
13 The insurer shall maintain in its corporate records documentation of the audits conducted to  
14 support its certification of audits for a period of five years or, if a domestic insurer, until the  
15 completion of the next quinquennial examination."

16 **SECTION 13.** G.S. 58-56-26 is amended by adding the following new subsection  
17 to read:

18 "**§ 58-56-26. Responsibilities of the insurer.**

19 ...

20 (d) The Commissioner may adopt rules necessary to implement, administer, and enforce  
21 the provisions of this section."

22 **SECTION 14.** G.S. 58-58-146 reads as rewritten:

23 "**§ 58-58-146. Application for annuities required.**

24 (a) Each individual (nongroup) annuity contract shall be issued only upon application  
25 of the ~~applicant, annuitant or proposed owner.~~ Any application ~~or enrollment form form,~~  
26 whether paper or electronic, is subject to G.S. 58-3-150, and if taken by an agent, broker, or  
27 other producer shall include the certificate of the agent-agent, broker, or other producer that the  
28 agent-agent, broker, or other producer has truly and accurately recorded on the application or  
29 enrollment-form the information provided by the applicant-annuitant or proposed owner. Every  
30 annuity contract subject to this section shall contain as part of the contract the original or  
31 reproduction of the application required by this section.

32 (b) The application copy required by this section may be either a photo copy of the  
33 original completed application, or a paper print of the completed application form, or a  
34 document that represents a compilation of information from the application process. Nothing in  
35 this subsection prohibits use of electronic application forms provided the format complies with  
36 these requirements."

37 **SECTION 15.** Article 63 of Chapter 58 of the General Statutes is amended by  
38 adding a new section to read:

39 "**§ 58-63-75. Senior-specific certifications and professional designations; rules.**

40 The Commissioner may adopt rules to set forth standards to protect consumers from  
41 misleading and fraudulent marketing practices with respect to the use of senior-specific  
42 certifications and professional designations in the solicitation, sale, or purchase of, or advice  
43 made in connection with, a life insurance or annuity product. These rules shall be substantially  
44 similar to the NAIC Model Regulation on the Use of Senior-Specific Certifications and  
45 Professional Designations in the Sale of Life Insurance and Annuities, as amended. The  
46 Commissioner may adopt, amend, or repeal provisions of these rules under G.S. 150B-21.1 in  
47 order to keep these rules current with the NAIC model rule."

48 **SECTION 16.** G.S. 58-3-225(h) reads as rewritten:

49 "(h) Subject to the time lines required under this section, the insurer may recover  
50 overpayments made to the health care provider or health care facility by making demands for  
51 refunds and by offsetting future payments. Any such recoveries may also include related

1 interest payments that were made under the requirements of this section. Not less than 30  
2 calendar days before an insurer seeks overpayment recovery or offsets future payments, the  
3 insurer shall give written notice to the health care provider or health care facility, which notice  
4 shall be accompanied by adequate specific information to identify the specific claim and the  
5 specific reason for the recovery. The recovery of overpayments or offsetting of future payments  
6 ~~may be made not more than~~ shall be made within the two years after the date of the original  
7 claim payment unless the insurer has reasonable belief of fraud or other intentional misconduct  
8 by the health care provider or health care facility or its agents, or the claim involves a health  
9 care provider or health care facility receiving payment for the same service from a government  
10 payor. The health care provider or health care facility may recover underpayments or  
11 nonpayments by the insurer by making demands for refunds. Any such recoveries by the health  
12 care provider or health care facility of underpayments or nonpayment by the insurer may  
13 include applicable interest under this section. ~~The period for which such recoveries may be~~  
14 ~~made may not exceed~~ The recovery of underpayments or nonpayments shall be made within the  
15 two years after the date of the original claim adjudication, unless the claim involves a health  
16 provider or health care facility receiving payment for the same service from a government  
17 payor."

18 **SECTION 17.** G.S. 58-51-25 reads as rewritten:

19 "**§ 58-51-25. Policy coverage to continue as to mentally retarded or physically**  
20 **handicapped ~~children-children~~; coverage of dependent students on medically**  
21 **necessary leave of absence.**

22 (a) An individual or group accident and health insurance policy, hospital service plan  
23 policy, or medical service plan policy, delivered or issued for delivery in this State after July 1,  
24 1969, which policy that provides that coverage of a dependent child shall terminate upon  
25 attainment of the limiting age for dependent children specified in the policy or contract, shall  
26 also provide in substance that attainment of such limiting age shall not operate or terminate the  
27 coverage of such child while the child is and continues to be (i) incapable of self-sustaining  
28 employment by reason of mental retardation or physical handicap; and (ii) chiefly dependent  
29 upon the policyholder or subscriber for support and maintenance: Provided, proof of such  
30 incapacity and dependency is furnished to the insurer, hospital service plan corporation, or  
31 medical service plan corporation by the policyholder or subscriber within 31 days of the child's  
32 attainment of the limiting age and subsequently as may be required by the insurer or  
33 corporation, but not more frequently than annually after the child's attainment of the limiting  
34 age.

35 (b) All health benefit plans, as defined in G.S. 58-3-167, that provide that coverage of a  
36 dependent child shall terminate upon a change in enrollment of the child in a postsecondary  
37 educational institution shall provide for the continued eligibility of the dependent child during a  
38 medically necessary leave of absence from the postsecondary educational institution in  
39 accordance with all applicable requirements of Public Law 110-381, known as Michelle's  
40 Law."

41 **SECTION 18.** G.S. 58-3-215 is amended by adding the following new subsection  
42 to read:

43 "(d) Notwithstanding any other provision of this section, a health benefit plan, as defined  
44 in G.S. 58-3-167, and insurers, as defined in G.S. 58-3-167, shall comply with all applicable  
45 standards of Public Law 110-233, known as the Genetic Information Nondiscrimination Act of  
46 2008, as amended by Public Law 110-343, and as further amended."

47 **SECTION 19.** G.S. 58-3-220 is amended by adding the following new subsections  
48 to read:

49 "(i) Notwithstanding any other provisions of this section, a group health benefit plan  
50 that covers both medical and surgical benefits and mental health benefits shall, with respect to  
51 the mental health benefits, comply with all applicable standards of Subtitle B of Title V of

1 Public Law 110-343, known as the Paul Wellstone and Pete Domenici Mental Health Parity  
2 and Addiction Equity Act of 2008.

3 (j) Subsection (i) of this section applies only to a group health benefit plan covering a  
4 large employer as defined in G.S. 58-68-25(a)(10)."

5 **SECTION 20.** G.S. 58-51-50 is amended by adding the following new subsections  
6 to read:

7 "(f) Notwithstanding any other provisions of this section, a group health benefit plan  
8 that covers both medical and surgical benefits and chemical dependency treatment benefits  
9 shall, with respect to the chemical dependency treatment benefits, comply with all applicable  
10 standards of Subtitle B of Title V of Public Law 110-343, known as the Paul Wellstone and  
11 Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

12 (g) Subsection (f) of this section applies only to a group health benefit plan covering a  
13 large employer as defined in G.S. 58-68-25(a)(10)."

14 **SECTION 21.** G.S. 58-65-75 is amended by adding the following new subsections  
15 to read:

16 "(f) Notwithstanding any other provisions of this section, a group health benefit plan  
17 that covers both medical and surgical benefits and chemical dependency treatment benefits  
18 shall, with respect to the chemical dependency treatment benefits, comply with all applicable  
19 standards of Subtitle B of Title V of Public Law 110-343, known as the Paul Wellstone and  
20 Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

21 (g) Subsection (f) of this section applies only to a group health benefit plan covering a  
22 large employer as defined in G.S. 58-68-25(a)(10)."

23 **SECTION 22.** G.S. 58-67-70 is amended by adding the following new subsections  
24 to read:

25 "(g) Notwithstanding any other provisions of this section, a group health benefit plan  
26 that covers both medical and surgical benefits and chemical dependency treatment benefits  
27 shall, with respect to the chemical dependency treatment benefits, comply with all applicable  
28 standards of Subtitle B of Title V of Public Law 110-343, known as the Paul Wellstone and  
29 Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

30 (h) Subsection (g) of this section applies only to a group health benefit plan covering a  
31 large employer as defined in G.S. 58-68-25(a)(10)."

32 **SECTION 23.** G.S. 58-68-30(f) is amended by adding a new subdivision to read:

33 "(4) Special rules for application in case of Medicaid or State Children's Health  
34 Insurance Program (Title XXI of the Social Security Act). – A group health  
35 insurer shall permit an employee who is eligible, but not enrolled, for  
36 coverage under the terms of the plan (or a dependent of the employee if the  
37 dependent is eligible, but not enrolled, for coverage under the terms) to  
38 enroll for coverage under the terms of the plan if either of the following  
39 conditions is met:

40 a. Termination of Medicaid or State Children's Health Insurance  
41 Program. – The employee or dependent is covered under a Medicaid  
42 plan under Title XIX of the Social Security Act or under a State  
43 children's health plan under Title XXI of the Social Security Act and  
44 coverage of the employee or dependent under such a plan is  
45 terminated as a result of the loss of eligibility for such coverage and  
46 the employee requests coverage under the group health insurance  
47 coverage not later than 60 days after the termination of such  
48 coverage.

49 b. Eligibility for employment assistance under Medicaid or State  
50 Children's Health Insurance Program. – The employee or dependent  
51 becomes eligible for assistance, with respect to coverage under the

1 group health insurance coverage, under such Medicaid plan or State  
2 child health plan (including any waiver or demonstration project  
3 conducted under or in relation to such a plan), if the employee  
4 requests coverage under the group health insurance coverage not  
5 later than 60 days after the date the employee or dependent is  
6 determined to be eligible for such assistance."

7 **SECTION 24.** G.S. 58-50-75(b) reads as rewritten:

8 "(b) This Part applies to all insurers that offer a health benefit plan and that provide or  
9 perform utilization review pursuant to G.S. 58-50-61, the State Health Plan for Teachers and  
10 State Employees, any optional plans or programs operating under Part 2 of ~~Article 3~~ Article 3A  
11 of Chapter 135 of the General Statutes, the North Carolina Health Insurance Risk Pool, and the  
12 Health Insurance Program for Children. With respect to second-level grievance review  
13 decisions, this Part applies only to second-level grievance review decisions involving no  
14 certification decisions."

15 **SECTION 25.** G.S. 58-50-79(b) reads as rewritten:

16 "(b) A covered person shall be considered to have exhausted the insurer's internal  
17 grievance process for purposes of this section, if the covered person:

- 18 (1) Has filed a second-level grievance involving a no certification appeal  
19 decision under G.S. 58-50-61 and G.S. 58-50-62, and
- 20 (2) Except to the extent the covered person requested or agreed to a delay, has  
21 not received a written decision on the grievance from the insurer within 60  
22 days since the date the covered person ~~filed the grievance with the~~  
23 insurer can demonstrate that a grievance was filed with the insurer."

24 **SECTION 26.** G.S. 58-50-80(a) reads as rewritten:

25 "(a) Within ~~60-120~~ days after the date of receipt of a notice under G.S. 58-50-77, a  
26 covered person may file a request for an external review with the Commissioner."

27 **SECTION 27.** G.S. 58-50-80(c) reads as rewritten:

28 "(c) If the finding of the preliminary review under subdivision (b)(2) of this section is  
29 that the request is not complete, the Commissioner shall request from the covered person the  
30 information or materials needed to make the request complete. The covered person shall furnish  
31 the Commissioner with the requested information or materials within ~~90-150~~ days after the date  
32 of the insurer's decision for which external review is requested."

33 **SECTION 28.** The introductory paragraph of G.S. 58-50-82(a) reads as rewritten:

34 "(a) Except as provided in subsection (g) of this section, a covered person may ~~make a~~  
35 written or oral file a request for an expedited external review with the Commissioner at the time  
36 the covered person receives:"

37 **SECTION 29.** G.S. 58-50-82(b)(1) reads as rewritten:

38 "(b) Within three business days of receiving a request for an expedited external review,  
39 the Commissioner shall complete all of the following:

- 40 (1) Notify the insurer that made the no certification, no certification appeal  
41 decision, or second-level grievance review decision which is the subject of  
42 the request that the request has been received and provide a copy of the  
43 ~~request or verbally convey all of the information included in the request.~~ The  
44 Commissioner shall also request any information from the insurer necessary  
45 to make the preliminary review set forth in G.S. 58-50-80(b)(2) and require  
46 the insurer to deliver the information not later than one business day after the  
47 request was made.

48 "...."

49 **SECTION 30.** G.S. 58-50-82(f) reads as rewritten:

50 "(f) If the notice provided under subsection (e) of this section was not in writing, within  
51 two days after the date of providing that notice, the assigned organization shall provide written

1 confirmation of the decision to the covered person, the covered person's provider who  
2 performed or requested the service, the insurer, and the Commissioner and include the  
3 information set forth in ~~G.S. 58-50-80(m)~~. G.S. 58-50-80(k).

4 Upon receipt of the notice of a decision under subsection (e) of this section that reverses the  
5 no certification, no certification appeal decision, or second-level grievance review decision, the  
6 insurer shall within one day reverse the no certification, noncertification appeal decision, or  
7 second-level grievance review decision that was the subject of the review and shall provide  
8 coverage or payment for the requested health care service or supply that was the subject of the  
9 noncertification, noncertification appeal decision, or second-level grievance review decision."

10 **SECTION 31.** G.S. 58-50-85(c) reads as rewritten:

11 "~~(c) The Commissioner may determine that accreditation by a nationally recognized~~  
12 ~~private accrediting entity with established and maintained standards for independent review~~  
13 ~~organizations that meet the minimum qualifications established under G.S. 58-50-87 will cause~~  
14 ~~an independent review organization to be deemed to have met, in whole or in part, the~~  
15 ~~requirements of this section and G.S. 58-50-87. A decision by the Commissioner to recognize~~  
16 ~~an accreditation program for the purpose of granting deemed status may be made only after~~  
17 ~~reviewing the accreditation standards and program information submitted by the accrediting~~  
18 ~~body. An independent review organization seeking deemed status due to its accreditation shall~~  
19 ~~submit original documentation issued by the accrediting body to demonstrate its~~  
20 ~~accreditation.~~In order to be eligible for approval by the Commissioner, an independent review  
21 organization shall be accredited by a nationally recognized private accrediting entity that the  
22 Commissioner has determined has independent review organization accreditation standards that  
23 are equivalent to or exceed the minimum qualifications established under G.S. 58-50-87. The  
24 Commissioner may approve independent review organizations that are not accredited by a  
25 nationally recognized private accrediting entity if there are no acceptable nationally recognized  
26 private accrediting entities providing independent review organization accreditation."

27 **SECTION 32.** G.S. 58-50-90(b) reads as rewritten:

28 "(b) Each organization required to maintain written records on all requests for external  
29 review under subsection (a) of this section for which it was assigned to conduct an external  
30 review shall submit to the Commissioner, ~~at least annually, upon the Commissioner's request,~~ a  
31 report in the format specified by the Commissioner."

32 **SECTION 33.** G.S. 58-50-94(b) reads as rewritten:

33 "(b) After the public opening, the Commissioner shall review the proposals, examining  
34 the ~~costs and~~ quality of the services offered by the independent review organizations, the  
35 reputation and capabilities of the independent review organizations submitting the proposals,  
36 and the provisions in G.S. 58-50-85 and G.S. 58-50-87. The Commissioner shall determine  
37 which proposal or proposals would satisfy the provisions of this Part. The Commissioner shall  
38 make his determination in consultation with an evaluation committee whose membership  
39 includes representatives of insurers subject to Part 4 of Article 50 of Chapter 58 of the General  
40 Statutes, health care providers, and insureds. In selecting the review organizations, in addition  
41 to considering cost, quality, and adherence to the requirements of the request for proposals, the  
42 Commissioner shall consider the desirability and feasibility of contracting with multiple review  
43 organizations and shall ensure that, for any given type of case involving highly specialized  
44 services and treatments, at least one review organization is available and capable of reviewing  
45 the case."

46 **SECTION 34.** G.S. 58-57-100(a) reads as rewritten:

47 "(a) Single interest or dual interest physical damage insurance may be written on  
48 nonfleet private passenger motor vehicles, as defined in G.S. 58-40-10, that are used as  
49 collateral for loans made under Article 15 of Chapter 53 of the General Statutes. Automobile  
50 physical damage insurance as described in this section is a form of credit property insurance, as  
51 referred to in G.S. 53-189. It is subject to the following conditions:



- 1 (1) Such insurance may be written only on a motor vehicle ~~on which there is a~~  
2 ~~valid inspection sticker~~ that is in compliance with the inspection  
3 requirements of Part 2 of Article 3A of Chapter 20 of the General Statutes.  
4 (2) If a motor vehicle is already insured and the lender is named loss payee and  
5 that insurance continues in force, then no other physical damage insurance  
6 may be written.  
7 (3) Notification must be given orally and in writing to the borrower that he has  
8 the option to provide his own insurance coverage at any point during the  
9 term of the loan.  
10 (4) The creditor must have either a first or second lien on the motor vehicle to  
11 be insured.  
12 (5) The amount of insurance coverage may not exceed the lesser of (i) the  
13 principal amount of the loan plus allowable charges, excluding interest, plus  
14 two scheduled installment payments or (ii) the actual fair market value of the  
15 collateral at the time the insurance is written.  
16 (6) When a creditor accepts other collateral in addition to a motor vehicle as  
17 herein defined, the combined insurance on all collateral may not exceed the  
18 initial indebtedness of the loan."

19 **SECTION 35.** Section 3 of S.L. 2005-183 reads as rewritten:

20 "**SECTION 3.** This act becomes effective October 1, 2005, ~~and expires October 1,~~  
21 ~~2009-2005.~~"

22 **SECTION 36.** G.S. 58-60-170(h) reads as rewritten:

23 "(h) Compliance with the ~~National Association of Securities Dealers~~ Financial Industry  
24 Regulatory Authority Conduct Rules pertaining to suitability shall satisfy the requirements  
25 under this section for the recommendation of ~~variable annuities.~~ annuities subject to the  
26 Conduct Rules. ~~However, nothing~~ Nothing in this subsection limits the Commissioner's ability  
27 to enforce the provisions of this ~~Part~~ Article."

28 **SECTION 37.** Sections 34, 35, and 36 of this act are effective when this act  
29 becomes law. The remainder of this act becomes effective October 1, 2009.